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CONGRESS AND THE CABINET.

In the year 1881, a select committee of the United States Senate was appointed to consider a bill (S. 227) to provide that the principal officer of each of the executive departments may occupy a seat on the floor of the Senate and House of Representatives. On the 4th of February in that year, the Chairman, Hon. Geo. H. Pendleton, reported back the bill, and recommended its passage as follows, said report being signed unanimously by the eight members of the committee, consisting of Geo. H. Pendleton, W. B. Allison, D. W. Voorhees, J. G. Blaine, M. C. Butler, John J. Ingalls, O. H. Platt and J. T. Farley. A cordial agreement, be it observed, of Democrats and Republicans. The bill provides :

"That the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, the Secretary of the Interior, the Attorney-General, and the Postmaster-General shall be entitled to occupy seats on the floor of the Senate and House of Rep-

representatives, with the right to participate in debate on matters relating to the business of their respective departments, under such rules as may be prescribed by the Senate and House respectively.

SEC. 2. "That the said Secretaries, the Attorney-General, and the Postmaster-General shall attend the sessions of the Senate on the opening of the sittings on Tuesday and Friday of each week, and the sessions of the House of Representatives on the opening of the sittings on Monday and Thursday of each week, to give information asked by resolution, or in reply to questions which may be propounded to them under the rules of the Senate and House ; and the Senate and House may, by standing orders, dispense with the attendance of one or more of said officers on either of said days"

"The first section provides for a voluntary attendance, to take part in debate. The second section provides for a compulsory attendance, to give information. In order to carry into effect the second section, rules somewhat like the following should be adopted by each house, *mutatis mutandis* : "

"That the Secretary of the Senate shall keep a notice-book, in which he shall enter, at the request of any member, any resolution requiring information from any of the executive departments, or any question intended to be propounded to any of the Secretaries, or the Postmaster-General, or the Attorney-General, relating to public affairs or to the business pending before the Senate, together with the name of the member and the day when the same will be called up.

"The member giving notice of such resolution or question shall, at the same time, give notice that the same shall be called up in the Senate on the following Tuesday or Friday: *Provided*, That no such resolution or question shall be called up, except by unanimous consent, within less than three days after notice shall have been given.

"The Secretary of the Senate shall, on the same day on which notice is entered, transmit to the principal officer of the proper department a copy of the resolution or question, together with the name of the member proposing the same, and of the day when it will be called up in the Senate.

"In the Senate, on Tuesday and Friday of each week, before any other business shall be taken up, except by unanimous consent, the resolutions and questions shall be taken up in the order in which they have been entered upon the notice-book for that day.

"The member offering a resolution may state succinctly the object and scope of his resolution and the reasons for desiring the information, and the Secretary of the proper department may reply, giving the

information or the reasons why the same should be withheld, and then the Senate shall vote on the resolution, unless it shall be withdrawn or postponed.

"In putting any question to the Secretaries, or the Attorney-General, or Postmaster-General, no argument or opinion is to be offered, nor any fact stated, except so far as may be necessary to explain such question; and, in answering such question, the Secretary, the Attorney General, or Postmaster-General shall not debate the matter to which the same refers, nor state the facts or opinions other than those necessary to explain the answer."

"These rules relate only to the execution of the last section of the bill—to giving information—to putting and answering questions. They in no wise affect the debate permitted and invited by the first section. They have been framed after a most careful examination of the rules and modes of procedure of the British Parliament and French Assembly, and are believed to contain the best provisions of both. They are framed to accomplish the purpose of obtaining the needed information with the least interference with the other duties of the heads of departments. No question can be called up unless after three days' notice to the Secretaries; and the answers are limited to the specific points of the question, in order that accuracy may be attained. These rules may be amended as experience shall show their defects."

"The bill confers a privilege and imposes a duty on the heads of departments. The privilege is to give their suggestions and advice in debate, by word of mouth; the duty is to give information orally and face to face."

The report, which follows the above, sets forth some of the advantages of the measure, its consistency with the constitution of the United States, and the almost universal prevalence of a corresponding practice in all countries which make even a pretence to representative government. Almost at the outset the report says: "The advantages of the system proposed are so obvious and manifold that the committee feels itself relieved from a detailed statement of them and confines this report to an examination of the question of its constitutionality."

It seems somewhat strange that a measure thus unanimously endorsed by a committee of both parties, presenting advantages so obvious, and with so complete a demonstration of its accordance with the constitution, should never since have received the slightest attention from either House of Congress, or from the executive. The explanation of this circumstance is of more importance than the actual analysis of the measure itself. In fact the dismissal by the report, in the few words above quoted, of the whole question of its political bearing has an exceedingly suspicious look, as if the committee did not care to assume the burden of a discussion in which they saw plainly that a tide of opposition was sure to set in. The grounds of this opposition may be stated under two heads :

I. The conservatism, or, if you please, the patriotism, which objects to a revolution in our traditional forms of business, arguing that either the change is too unimportant to care about, or else that under our system it cannot be made to work successfully.

II. The powerful private interests which would be injured by it, against which the public interest has little chance to be heard.

It is generally admitted that the main features of our Federal constitution were copied from the government of Great Britain, and though it has been contended with much force by Mr. William C. Morey, in the April (1891) number of this magazine, that it was based upon the colonial constitutions which were themselves modelled upon the charters of the great British trading companies, the result is not much affected as far as the present inquiry is concerned. Now the leading feature of the British constitution is the government of the cabinet in parliament, so ably described by Mr. Bagehot, and, as the framers of our constitution did not introduce this feature, it is assumed that they did not intend to have it. Nearly all foreign observers maintain that it is wholly incompatible with our constitution, and Mr. Bagehot draws an elaborate distinction of what he calls presidential from parliamentary forms,

based entirely upon the absence of this cabinet government and says triumphantly that while the Americans have many excellent things, this they have not and cannot have. On the other hand Mr. James Bryce (*American Commonwealth*, Vol. I., Chap. XXV, p. 279) says :

"These observations may suffice to show why the fathers of the constitution did not adopt the English parliamentary or cabinet system. They could not adopt it because they did not know of its existence. They did not know of it because it was still immature, because Englishmen themselves had not understood it, because the recognized authorities did not mention it. Whether the fathers would have imitated the cabinet system, had it been proposed to them as a model, may be doubted. But as the idea never presented itself, we cannot say that it was rejected, nor cite the course they took as an expression of their judgment against the system under which England and her colonies have so far prospered."

We have next to consider whether the measure could be made to work successfully. It is objected that the English ministry resign when the majority of the House of Commons is against them, and that such a practice here would be wholly inconsistent with our fixed terms, especially as the ministry have the power of dissolving parliament as a weapon of self-defence, which our cabinet could not have as against Congress. The fatal instability of the French ministries depends largely upon the fact that they have not the power of dissolution, which belongs to the president and the senate acting jointly. This feature, it may be replied, is not at all essential to the system, but only a consequence of the method by which the British ministry as well as the French is appointed. The former, as Mr. Bagehot has pointed out, is a committee of, and practically elected by, the majority of parliament. Of course the creature must obey its creator. As the majority makes the ministry, the majority is the only power which can unmake it, and the ministry must spend most of its strength in fighting for life. If our cabinet were to resign at the bidding of Congress, the power of appointment would soon be transferred from the President to Congress and the former would become a mere cipher. This weakness is increased by another circumstance, namely,

that parliament does not choose the whole ministry, but only indicates imperatively to the queen the candidate for the premiership, and this individual is invited by the queen to form a ministry. He does this by inviting in his turn certain other men, of equal standing with and as independent as himself, to join him. He can secure them only by promising to stand by them, that is to make his own resignation a consequence of their defeat. The whole fabric is in a condition of unstable equilibrium, being exposed to entire collapse through an accident to any one of its parts. The conditions of our government are wholly different. The President is chosen, to speak conventionally, by the whole nation, and appoints his cabinet, which the Senate seldom or never refuses to confirm. Neither he nor the cabinet are in any way dependent upon Congress for existence and he can support or remove any member of the cabinet at his pleasure. The objectors say that this would have one of two consequences either of which would be fatal; either the cabinet would be so brow-beaten and bullied that their situation would become intolerable, and the whole executive be humiliated, or else by exercising power and intrigue, the executive would overshadow the legislature to the manifest danger of our institutions.

As to the first point it must be remembered that the sympathy of the people would always incline towards the executive, both on account of the element of personality and because, as the agent of the whole, he would wield a force of public opinion much stronger than that at the disposal of any part or number of parts. Factious opposition or criticism on the part of members would be restrained by the fear of losing their seats. It would be perfectly easy for a cabinet officer by dignity and self-control to secure corresponding treatment on the part of the houses. If those bodies refused to pass measures desired by the government, or insisted upon those opposed by it, the executive could accept the results, just as it does now, but with such measure of protest or force of argument as would carry weight in the next elections. The protection against the abuse of power on the part of the executive would be just as great.

Instead of being always shielded by a party vote as the price of subserviency to party purposes, or, on the other hand, if the party majority was of opposite politics, of being hampered to the point of impotence, the members of the cabinet would be exposed to criticism and cross-examination by individuals of either party or independent, and would thus be unable to carry on secret intrigues. Whatever power they did exercise would have to be displayed in full view of Congress, always sufficiently jealous of prerogative, and in that of the nation, which would either approve or condemn it at the next elections. The experience of the British government is at least conclusive on this point. It is beyond question that precisely this public and personal responsibility has converted both parliament and ministry from the corrupt condition of Walpole's time and half a century later, gradually but steadily to the purified condition of the present day, has extinguished bribery at elections, and to that end has led the House of Commons to surrender its control in the case of disputed elections into the hands of the courts. It is this personal responsibility which has been the instrument of carrying into effect more extensive and at the same time peaceful reforms in the interest of the masses of the people at large, than have been achieved in the same time by any other nation in the world.

We come next to the class of objections, which may be described under the head of vested interests, and which are so numerous and so powerful that they might well cause despair in any less important cause. The central fact around which they all turn, and which is more important than all others to be kept in mind, is that the people of the United States as a whole are not represented at all in either House of Congress. Every man who can speak there, represents either a State or a district, is responsible only to that locality, and has neither interest nor authority to act or speak for the whole country. When the house of representatives assembles, its 325 members are all precisely equal, for the most part strangers to each other, and without any official guide or leader whom they can look up to, so that they are compelled to submit to certain

self constituted party managers. The nearest approach to a leader is the Speaker, whom, being nominally a presiding officer to conduct deliberations, we have seen aspiring to an almost despotic control over legislation. Such a body can only get to work by splitting itself up into a number of standing committees, made up at the pleasure of the speaker, who gives all the most important places in them to those members who have been most active in securing his election. This is an arrangement so fruitful of corruption and jobbery that it would drag down and corrupt the purest and ablest body of men in the world. For the working of the committee system I need only refer to Prof. Woodrow Wilson's work on "Congressional Government". The result is that no question is ever considered, debated, or acted upon from the point of view of the general interest of the people. It is simply a matter of securing the largest number of local and party votes by private manipulation, intrigue, lobbying, and the manufacture of a spurious and fictitious public opinion. The McKinley tariff bill, the silver coinage bill, the pension bill are the results of just this process, and whether good or bad are in no way the concentrated expression of a national public opinion. Now the presence of the cabinet officers in Congress would exactly reverse this process. It would apply to every scheme brought forward the touchstone of its relation to the general public interest, represented by a national official deriving his authority through the president from the whole people. Again, when Congress meets not one single item of business is prepared for either branch. The president and cabinet indeed send in messages and reports, but they contain merely general recommendations which can claim no precedence over thousands of private schemes and motions brought forward by members and Senators, either for themselves or their party and local supporters. The whole mass is sent upon a precisely equal footing to the standing committees, and what attention, if any, they receive, must depend upon the amount of private and party influence which is brought to bear upon the committees. During the interval, from one to five months, while this pro-

cess of incubation is taking place, the main bodies have little or nothing to do, and are apt to illustrate the saying of Mr. Bagehot, that if you get together the ablest body of men and give them nothing to do they will quarrel about that nothing. If the cabinet, as proposed, occupied seats in the house, they would be ready to present at the opening of the session a series of measures perfectly prepared from the point of view of the general interest, and would at once demand and receive for these the attention of the houses in separate succession, instead of as now everything being left to come in with a confused rush at the end of the session, so that anything like debate or calm consideration is impossible. As in the smoke and turmoil of battle, it is impossible to see what is doing, until all is over, and it is too late for remedy. It is obvious that the existing state of things gives an enormous advantage to private and party interest in the hands of skilled manipulators under the stimulus of direct gain, as against the interest of the people at large who have no agent or representative. Further than this, as the whole business of Congress is done in the privacy of the committee rooms, by the action of majorities and minorities, with hardly any personal agency which the public can see, the voters, even of the local constituencies, have no guide to the selection of candidates and this accordingly falls into the hands of party managers in the nominating conventions, working in affiliation with the forces which surround Congress, while the voters have only the choice between the names put forward by the two sets of managers known as the Republican and Democratic. For this reason it has come to be considered at least wanting in taste for a man to offer himself to a constituency as a candidate for Congress, because he is to receive a considerable salary with an agreeable residence in Washington, while it is out of his power to offer any consideration in past or future achievements, at least of a kind for which he can establish a personal credit. From this cause, again, has grown up the restriction, not at all required by the constitution, that a member shall be a resident of the district from which he is elected. If it were a

question of a lawyer, a physician or a business agent, the absurdity of this would be at once apparent, but when it involves not something to do but something to get, there is a natural desire to retain such a perquisite in the district, while fairness requires that it should not be held by any person for more than one or two terms, even though the experience he has gained may be of great value to the public service. The presence of the cabinet officers would tend to reverse this. If the business were transacted in public, members would appear as individuals in relation to it, could go to their constituents with a record and evidence of work done, and a pledge of future effort in the same direction. They would no longer hesitate to offer themselves as candidates and the popular choice would not be limited to convention nominees, whose first and last qualification is that they have proven themselves submissive to the discipline of party managers.

In what has been said, I have by no means attempted to show all the advantages to be derived from the measure proposed in the Senate report, or the weakness of the objections to it. The doing this would furnish matter for a considerable volume. My present object has been only to explain the reason why a report of such importance has never received the slightest attention from Congress, namely, that under our present practice a network of private interests has grown up which would be seriously prejudiced and endangered by such a change ; that while the change would greatly promote the interest of the mass of the people, these masses have no common agent or representative, and while the initiative thus far lies wholly with Congress, the influences which surround and control that body have quite different objects in view. The only chance of the reduction of the matter of that report to practice lies in two directions, first, that a voluntary association should be formed for securing it by popular agitation, as to which it may be said that the whole force of that kind is now applied to the attainment of details, civil service, tariff and currency reform, that of Indian administration and so on, and has not yet grasped the idea of a general principle which

should include them all. The other expedient is, that some President should have the intellect and courage to take in the situation, and make it the subject of a direct appeal to the nation under cover of a message to Congress, as to which again it may be said that this is hardly the kind of fruit which experience justifies us in expecting from nominating conventions.

GAMALIEL BRADFORD.

*Boston.*

## THE PLACE OF PARTY IN THE POLITICAL SYSTEM.

It is evident even to the careless observer that party fills a large space in the world of politics. In the United States, France, Great Britain, and indeed in all countries where party government is fully established, the citizen receives the larger share of his political education from party, and through party discharges the larger portion of his political duties. But despite its conceded importance in practical politics, very few have as yet turned their attention to the philosophy of party. As a rule even the best of the formal treatises on political science give it little or no consideration. This neglect may be due in some degree to the fact that the establishment of party government is of recent date, and also to the further fact that previous to the establishment of party government, party was regarded not as the servant but as the enemy of the state. It used to be thought of as having no rights in the political household. It led therefore the precarious life of an outlaw. Under governments which rest on force, as well as under governments that base their claims on divine right, there is no room for party. Such governments see in party a denial of their pretensions and an aspirant to their seats. This dislike of party on theoretic grounds was confirmed by its early conduct. Treated as an outlaw it behaved as an outlaw. Conventional morality it set at defiance. It grew up in the atmosphere of irresponsibility. Since its first work was to unsettle and destroy, it arrayed against itself all conservative influences both good and bad; and this hostility has always stood in the way of the discovery of its functions and the recognition of its services. It is clear that the framers of the Constitution of the United States did not make full allowance

for the fact that the system which they planned would be worked by party; had they done so they would not have devised so futile an arrangement as the electoral college. [See Bryce: "Hamilton and De Tocqueville."]

But whatever may be the excuse for past neglect, there can be no good ground for its continuance. We live to-day under party government. We want good government; and the first step towards securing this is to acquaint ourselves with the nature, the capacity and the limitation of our new ruler. But party is by no means identical with government. It is both something more and something less. It is one of a number of factors which taken together constitute the system found in every advanced state by means of which its political life and progress are maintained. But what place does party hold in this system? The first step towards an answer is to obtain a clear conception of the nature of the state and of the several factors which serve as the organs of its activity.

The state, for the sake of which the political system exists, may be defined as a people politically organized; that is, a people whose classes and individuals form an organic whole in and through which the political wants of each and all are satisfied. No people that lacks this political self-sufficiency can be a state. A community may be so organized that it can satisfy most of the wants which its members feel as citizens, and yet if it must go outside of itself in order to find satisfaction for even one of these, that community is not a state. In this sense—the sense which we employ when we speak of France and Russia as states—neither Canada nor Massachusetts is a state. But political self-sufficiency, although essential to every true state, does not imply isolation. A degree of interdependence among states in matters of a non-political nature is not only desirable but indispensable. Without it progress must be slow and inconsiderable. This useful interdependence is partly economic, partly intellectual, and partly moral and spiritual. That it obtain from other peoples their highest goods and that it impart to them its own, is the condition on which alone any people can take a worthy part in promoting civilization. The

traffic in ideas is safe enough unless it becomes one-sided. The habit of receiving and enjoying what others produce without producing and giving what others may enjoy is not less hurtful to a people than to an individual. The "ultimate end" for which each state exists is to contribute as much as possible to the progress of mankind, but its immediate end as well as its absorbing occupation, is to provide for its own development and welfare. [See the chapters on the Ends of the State in Prof. Burgess' "Political Science and Constitutional Law," Vol. I. p. 83.]

The organ through which the state provides for its ordinary wants is government. It will aid in the effort to obtain a true conception of government, to think of it as the agent whom the state commissions to do certain things in certain ways and for as long a time as the state sees fit to continue the commission. It will aid also to separate in idea the agent from the agency: the agent being the person or group of persons who govern, and the agency the post or group of posts which they fill. Government is the creature of the state. Its office is to serve the state. It has no rights as against the state. It is good in proportion to its obedience and in proportion to the efficiency and fidelity with which it provides for the interests committed to its charge.

But how shall the state secure this obedience and fidelity? In the earlier stages of political development the state did not as a rule secure them at all. Government regularly usurped the functions of the state and identified itself with the state. When Louis XIV. asserted that he, the king, was the state, he advanced a claim which accorded with the practice of most governments before his day and for some time afterwards. There had been, it is true, exceptional great rulers who held themselves to be the servants of their people, and there had been exceptional great periods of considerable duration when government was obedient to the state. But these were in the best days of Greece and Rome. Before and afterwards and nearly everywhere government was the master and the state, the people, was the servant or rather the slave. This, however,

did not come by chance. It was the necessary consequence of the fact that the people were then in their political infancy. The governments were guardians who, since there was no court to call them to account, administered the estates of their wards in their own interests. This statement, however, does not apply without qualification to Latin-Christian Europe during mediæval times. Fortunately each people had then not one but three government-guardians, namely, the pope, the emperor or king, and the feudal lord. Each in turn interposed as the champion of the people against the oppression of the other two. The people under the protection and leadership of first one and then another of their masters, learned to understand, to value, and to fight for their rights, and in this way made some advance towards political manhood. How greatly this mediæval division of government contributed to progress may be seen in the political retrogression which followed, when, at the beginning of the modern period, the national king overcame both pope and baron and appropriated to himself the whole or nearly the whole of government. The peoples were at that time still very far from being able to cope with government. They possessed the principle of representative government; but nowhere could they avail themselves of it in resisting the encroachments of the king. In Spain and France the principle itself was disowned and for a long time almost forgotten. In England it remained, but for a considerable period Parliament was excluded from its highest functions, and degraded into an almost passive instrument of royal policy and caprice. The early Tudors oppressed the state; but, because they did this by means of Parliament, England was able to preserve what her neighbors lost, namely, an institution through which in better times the state could win back its freedom and its rightful authority over government. The English, moreover, were the first to outgrow the political immaturity which had made oppression possible during the fifteenth and much of the sixteenth centuries. Amid the fierce conflicts of the Reformation period, and under the tactful though despotic guidance of Henry VIII. and Elizabeth, the

people learned to think for themselves; and the state, apart from government, came to have a mind and a will of its own. This was one step towards emancipation. The second belongs to the seventeenth century. Stated in its most comprehensive form, the result of the struggle between Parliament and the Stuarts and between Parliament and Cromwell was the overthrow of the theory of the divine right not only of kings but of government, and the establishment of the doctrine of the supremacy of the state over government. This I think is the innermost meaning of the Bill of Rights of 1789. This epoch-marking instrument signifies in the history of the English-speaking peoples the second and greater Restoration; not of the king "to his own," as in 1660, but of the people to their own. The victory won, the question which next arose was, how shall its fruits be secured? By what devices can the state make sure that government will always and fully execute its will?

The oldest and crudest of these is revolution. But this, although frequently useful, and at times indispensable, is always costly. It leaves behind a demoralization and exhaustion, from which the state recovers slowly and imperfectly. Revolution, moreover, can never be more than a partial remedy for the evil under consideration. Indeed its greatest service is to enable the state to regain for a short period its lost mastery over government, and while in possession of this to make those changes in the form and personnel of government which promise greater efficiency and more perfect obedience. But such changes are experiments; and there is usually much in the situation which works against their success. In the case of many, perhaps of most revolutions, the governments which they set up prove not less despotic than those which they overthrow.

The constituent convention—the agency through which the state acts in the formal reconstruction of government—is most frequently resorted to in those crises when an impending revolution is to be averted, or when, in consequence of revolution, government is to be constituted anew. Employed in this way,

the constituent convention is one of the most impressive and useful of the means at the command of the state, for asserting its rights and enforcing its will. But it is open to the same objections which apply to revolutions; indeed it is itself a revolution. It does not, and cannot, secure for the state the continuance of that control over government which in its name and for a moment it strongly asserts.

Another device also of ancient date, by which the state seeks to hold government in due subordination to itself, is a constitution. This, defined in simple terms, is a body of rules by which the state constitutes government and attempts to regulate its conduct. It is obvious, however, that these rules, whether accepted slowly, one by one, as custom gives them form and authority, or all at once when promulgated by a constituent convention, can never adequately express the will of the state. They can only tell what that will is in respect to the general direction of public policy. Particulars they cannot touch. Not only in respect to ordinary legislation and administration, but also in respect to the extraordinary measures which emergencies call for, a constitution, however comprehensive, and however careful in the matter of detail it may be, must still leave a very large field to the discretion of government, so that it becomes possible for government, while observing scrupulously the formal requirements of the constitution, to pursue a policy in many points contrary to the will, and hurtful to the interests of the state. And this can happen all the more easily, because in progressive states the development of the constitution cannot keep even pace with the development of the people. As a rule, stongly conservative interests associate themselves with established constitutional forms and resist for a long time and with success useful as well as injurious changes. Moreover, constitutions are not self-executing. Behind them there is need of a force separate from and independent of themselves in order to carry their provisions into effect.

In some states the government may at will resolve itself into a constituent convention to the extent at least of making im-

portant changes in the constitution. This is true of England, France, and Germany. The result is to greatly strengthen government and to increase correspondingly the risk of encroachment upon the prerogatives of the state. Such states therefore stand in special need of some primary form of organization by which they can hold their governments in subjection.

The most effective of the several devices for accomplishing this end is party. Slowly and clumsily it was fashioned during the quarrels between Cavalier and Roundhead. Awkwardly it began to claim and to fill its place under the later Stuarts and William III. But during the reigns of the first and second Georges, it came to be so well established that it could withstand the reaction led by George III. The American colonies received the institution of party, as they did most of their political outfit, from the mother country. But in their hands it underwent after the formation of the Union a marked development, and to-day the American party-system presents a perfection of organization not elsewhere to be found.

How does party accomplish this task of holding government in subjection to the state? Its more obvious functions are two; it educates and organizes public opinion, and it administers the government. Public opinion is what the people think and feel in respect to public questions; not what they think and feel when such questions are first presented; but their well-considered thought and their clarified feeling after they have studied these questions well, and have attained the mood which is favorable to wise judgment. Party is by far the most important of the agencies through which the crude first thoughts and blind first feelings of the people are transformed into the rational thinking and feeling which is public opinion. In the first place, party keeps the people fully informed in regard to public matters. What one party fails to discover or wishes to conceal, its rival is sure to unearth and proclaim. In the second place, party discusses with freedom and thoroughness every public question in the presence of the people. In the third place, party discusses such questions not merely on the ground of a surface expediency but in the light of great princi-

ples. Indeed the ultimate end of party is to secure as the basis of public policy the adoption of the principles which it professes. The dissemination of these principles is therefore one of its chief employments, and enters largely into the discussions which it conducts. But the principles of the different parties considered collectively are the principles of the people. Despite the many objectionable features which mark the contests of parties, such as narrowness, exaggeration, and downright misrepresentation, the results of these contests is to bring the people closer to the fundamental truths of politics, and to make them sounder as well as better informed judges of what concerns the public welfare. In the fourth place, party not only secures the discussion of public questions before the people, but, what is more important, discussion by the people. In this way party lifts the common citizen out of the ranks of private life and imparts to him in some degree a public character. Lastly, party organizes the public opinion which it helps to form. It provides the means by which those who hold like views in regard to public questions can act together effectively in their support. It is able to do this because it possesses and exercises the right to designate those who fill the posts of government; and because, in the second place, it must take into its own hands the direction of every movement by which the constitution is modified. The second of the two functions named is to administer the government. In the performance of this function the party in power under the system of party government, holds the position and does the work which fall to the king under a system which is really—not nominally as in England—monarchical. In the discharge of this function the duty of the party in power as well as of the king is to apply in the wisest possible way the public resources to the satisfaction of the public wants, and to do this according to the methods and with strict regard to the limitations prescribed by the constitution. It is not necessary to discuss here the debatable question whether party government in itself is a good form of government. It will suffice to direct attention to one remarkable difference between it and other forms of government.

The party in power, in other words the government, is removable at will. In England this can be done at any moment when Parliament is in session; in the United States it can be done at least once in every four years. Moreover, in all countries where party-government exists, the state is constantly checking, rebuking, or encouraging the party in power; and the party in power, that is the government, listens respectfully and obediently to every manifestation of its master's will. That this is not true under other forms of government is sufficiently obvious. States which are ruled by monarchs or oligarchies are usually forced to resort to revolution whenever it becomes necessary to depose the agent who governs.

To what place in the political system do these functions entitle party? The answer to this question is that party, or rather the party system, constitutes an informal but real and powerful primary organization of the state. Party stands closer to the state than any other factor of the political system. It is the first to interpret, and the first to give expression to the will of the state. And when that will is once made manifest party superintends its execution. If the state wills a change in the constitution, party puts in motion the constitutional machinery by which the change is effected. If the state wills a change in the policy of government, party takes the steps by which this, too, is accomplished. In short, it seems to me, that the obedience of government which the state used to secure at long intervals and for short periods, at great cost and very imperfectly by means of revolution and constituent assemblies, it now secures easily and far more durably and perfectly by means of party.

ANSON D. MORSE.

*Amherst College.*

## RECENT TENDENCIES IN THE REFORM OF LAND TENURE.

Frenchmen are fond of speaking of the great revolution of a century ago as if it were the source from which all subsequent European reforms have sprung. But each country has its own germs of development, and the strongest historical influences have been from within the nations, not from without. Yet it is true that the French revolution was to a most wonderful degree a microcosm of modern history. Scarcely a form of subsequent political or social experience in any western country is without its type in France in those turbulent years. An instance of this is found in one of the earliest movements of the revolution, the series of reforms in landholding. This was not only one of the first institutions of French society to feel the effects of the revolution, but during that whole period it was the object of much legislation and administrative attention. Since that time it has never been long out of discussion. What began thus early in France, began at somewhat later dates in every other country of Europe. Questions of land tenure have been among the constantly recurring problems of internal policy in each of those countries. In this course of discussion and legislation it is curious to note that notwithstanding all the differences of national institutions and national character, the questions connected with landholding have taken much the same form in the whole group of western nations, and the solutions themselves, in as far as they have been reached, have a considerable degree of similarity.

A century ago, at the beginning of the French revolution, landholding in every country in Europe retained the stamp which the middle ages had impressed upon it. Although the feudal system as a form of government had long before given

place to more centralized monarchical power, yet in many of its social and economic elements it still remained dominant over the life of the people. This was especially true of landholding, the privileges of which had been left to the nobility as a partial equivalent for the political power they had lost. The system of land tenure moreover had the marks not only of feudalism but also of the earlier communal system on which feudalism had been imposed. In France the slow, insensible effect of economic growth had modified the earlier conditions more than in most countries, but even here the apparent possessors of much of the soil held it in very incomplete ownership, and subject to many feudal burdens. Primogeniture was the legal rule of descent, *mortmain*, through the church, had its clutch on almost one-third of the soil of the country, and another third was in the entire possession of the *seigneurs*. The communes still held a great deal of undivided land. This condition of things was attacked in the first great series of reforms of the revolution, the legislation initiated on the night of August 4, 1789. By these decrees the remains of serfdom in France were abolished, all rights of the lords over holders of land in their manors were either abrogated outright or made redeemable, and the exclusive right to all game and fish on lands lying within the borders of their manors taken away. A whole series of old burdens on landholding was removed and the actual occupants of the soil in France were emancipated from much of the pressure of effete feudalism. Three months afterward the National Assembly declared the estates of the church national property, they were sold and thus taken out of the trammels of *mortmain*. In 1793 lands belonging to emigrant nobles and persons convicted of political offenses were confiscated and sold, thus lessening to a great degree the applicability of primogeniture. Subsequently the communal lands also were largely divided and sold. Another measure of reform was the breaking of entails, prohibition of primogeniture and substitution therefor of equal division of land as well as other property among all the children. This law of bequest finally settled into the condition perpetuated by the Code Na-

poléon, by which all lands must be divided either equally among the children or with one extra portion disposable at the wish of the testator. Although Napoleon in the exigencies of his political system allowed a slight return towards entails yet this was infinitesimal in its effect on the land system of France. Thus in the twenty-five years of the revolutionary period the land of France had been freed from almost all the remains of feudalism and communism, and had been put into the complete ownership of its possessors.

The surrounding nations were not quick to borrow from the French during the revolution, but nevertheless sooner or later most of them succumbed to its influence on their land systems. The incorporation of the portions of Germany west of the Rhine, and of Belgium into France, involved the assimilation of their land systems, and this remained a permanent change. In Holland and the parts of Germany annexed for a shorter period, the alteration of the land system was only temporary, though its influence was permanent. In the States of the Confederation of the Rhine the immediate effect was only appreciable in a few States, such as Westphalia and the Grand Duchy of Berg, Hesse-Darmstadt, and Nassau, and only in certain respects, such as the abolition of serfdom, and the abrogation or redemption of some feudal dues and impositions. Prussia also was influenced, indirectly perhaps, by the movements of the time, and in the Stein-Hardenberg legislation of 1807 and 1811 serfdom was abolished, free purchase and sale of land granted, permission to break entails by a family agreement given, and other reforms introduced. In Germany the communal elements of the mediæval manor had remained in much greater strength than in the countries further west, and a dissolution of the double ownership between lord of the manor and tenant of the manor had to be one of the first steps of reform. The completion of the ownership of the soil by the peasant, in such cases, was provided for by requiring the cession of one-half or one-third of his holding as the condition of his becoming full owner of the remaining portion. Austria alone among all the States of Germany seems to have felt no

effects on its system of land holding from the French revolution. Joseph II, before this time, had introduced modifications of the worst personal elements of the feudal manor, but as a land system it had been and long remained practically untouched. In the Italian Peninsula land tenure at the beginning of the revolutionary period was of a distinctly mediæval type, except indeed, in Tuscany, where the "enlightened despotism" of Leopold I, as of his brother Joseph, in Austria, had already introduced some modern reforms. In 1774, for instance, in his code of provincial regulations, he had given peremptory instructions to all local bodies to alienate their communal lands, either by sale or by the form of perpetual lease known as *allivellazione*. In 1782 he modified entails and primogeniture, and in 1789 abolished them altogether. In some of the other Italian States the panic resulting from the news of the actions of the National Assembly in France, led the governments to introduce some reforms, among which were modifications of primogeniture, and of some of the other abuses of feudal landholding. But these were of little importance compared with the changes brought about by the results of the French invasion. In the ephemeral republics into which Italy was then divided, and in its somewhat more permanent organization as French departments, and the Kingdom of Italy, the French code was introduced as civil law. Under its provisions, over all northern Italy, the burdens of feudalism were removed from the landholders, primogeniture ceased to be the rule of descent, and strict settlement of estates was abolished. In the kingdom of Naples the sovereigns of the house of Bonaparte set themselves to the same work, which was carried out between the years 1806 and 1812 by a "feudal commission." A great mass of the Italian peasantry, before this time only occupants of the soil, now became its real possessors.

In Spain the revolutionary Cortes of 1811 began the work which had been done twenty years before in France. The lords of manors were deprived absolutely of all purely feudal control of the land, and after indemnification were deprived of

all previously irredeemable rights. In England the economic development of the country had made the purely feudal relation of the land holders of comparatively little importance. The original communism of the manor as represented by the "commons," was also to a great extent a thing of the past. The old feudal and manorial constitution still existed, but attracted little attention, and during this whole period received no legislative modification. The land system of England was sufficiently full of abuses, but they were not directly traceable to feudalism or the manorial system. The same absence of land legislation applies also to the countries dependent on England. Thus during the twenty-five years between 1789 and 1814, the land system of Europe as it had existed before the beginning of that period had, with some exception, been radically changed. Feudalism as a system of land tenure was abolished, and the remains of the old communal organization were very much lessened. Private property in land had become a familiar conception where before it had hardly existed. Complete and individual ownership, dissolution of joint claims, freedom of purchase and sale, bequest to all children instead of to a single heir, were more or less fully introduced into all the States of central Europe.

But this development of the land system of Europe had been made in the midst of a great period of political upheaval and reorganization. That period was now at its close, and it remains to be seen how close was the connection between the political movement and land tenure. As the course of land legislation is traced further, it becomes evident that just as the period succeeding the downfall of Napoleon in 1814 was one of political reaction, so in the economic sphere, and especially in landholding, it was a period either of return to old conditions, or at best of cessation of reform and development.

In France, the code and the constitution stood in the way of any radical return to pre-revolutionary land conditions, but even here modifications in the way of reaction were introduced. In 1817 the right to make bequests of land to the church was restored, in 1819 the right to institute *majorats* or entails, restored by

Napoleon for the sake of his new nobility, was extended to all the constitutional peerage of the restoration, and in 1826 the right to make strict settlement to one generation allowed by article 1048 of the code was extended to two generations. This policy culminated in the attempt of the government of Charles X to carry a law making the extra disposable portion allowed by the French legislation in bequests of land go always in cases of intestacy to the oldest son, instead of an equal division taking place. This being clearly a departure from the spirit of the land laws, and an attempt to reintroduce rights of primogeniture, was so strongly opposed by all the liberal elements in France that the attempt was given up. In Prussia a law of 1815 restricted the operation of the Hardenberg legislation to large farms, and in 1821 the calculation of indemnity to be paid by peasants to lords of manors in order to become full owners was again made on the basis of the whole group of old feudal dues, instead of the normal one-half or one-third. In the other German States the process of land enfranchisement that had been going on so rapidly during the last period came to a sudden stop. In the States of the Italian Peninsula the same reaction took place. In Piedmont the old régime was introduced as completely as possible. In Lombardo-Venetian provinces the Austrian code, one of the most backward in Europe in its land legislation, was enforced by the courts; in Modena absolutely all of the old feudal paraphernalia were brought back. In Tuscany and Parma alone was there an enlightened land system. In Spain Ferdinand VII, along with his abrogation of the constitution, repealed the law of 1811 and re-established, in 1814, all of the old feudal rights over the soil.

As this period of retrogression in land tenure reform was an accompaniment of political reaction, so the European revolutions, which instituted political advance, led to renewed progress in land legislation. In 1820, 1830, and 1848 the peoples of the continent made successive efforts to gain liberty, and a resumption of the work of enfranchising the soil from mediæval conditions followed in the wake of each of these movements.

The earliest instance of this close connection between political and economic reform was when the Spanish revolutionary government in 1820 confiscated the *mortmain* lands of the church, limited entails, and re-established the old law of 1811. But the most striking instances are in some of the Italian States. The Sardinian government, for instance, as a result of the risings of 1820 and 1821, turned its attention to reforms, though the only actual result was a law for the public registry of mortgages. After the revolution of 1830 a new code was formulated in which the division of intestate lands left forever the old basis of primogeniture, and settlements and entails were very much limited. In 1832, an edict gave to communes permission to alienate their joint possessions, and at the same time feudal rights and communal holdings were abolished in the Island of Sardinia. In a third step, immediately after the revolution of 1848, entails and all other rights of primogeniture were abolished, and in 1851 the work for that kingdom was practically completed. Similarly in France, the law of 1835 forbade future creations of *majorats* or entails, and that of 1849 provided for the speedy extinction even of those already existing. This law abolished the right of making *substitutions* or strict settlements altogether. In Germany the more backward States which had withstood the earliest movements, all succumbed as a result either of 1830 or of 1848, and followed the main lines of early land tenure reform, abolition of serfdom and feudal dues, modification or abolition of primogeniture in its various forms, division of communal rights, introduction of allodial and individual holdings in place of joint holdings on a feudal basis. For instance, in Hesse-Darmstadt and Würtemberg the long, dragging discussion of feudal burdens remaining from the Napoleonic period, was roused into life by the events of 1830, and in the year 1836 radical laws cleared them away altogether. Still more promptly after the revolution of 1848, we find liberal land laws in Bavaria, Baden, Hesse Cassel and Prussia, before that year was finished. In Austria and Hungary since the attempted reforms of Joseph II, as has been already noted, land legislation had lagged behind almost all

the rest of Europe, and this notwithstanding general recognition of the character of the land system as an anachronism. In 1835, proposals for change had been made by the landholding nobles themselves, but the government with its well-known reluctance to enter upon innovation shrunk from the task. In 1846, however, a peasant rising in Galicia directed the eyes of all Europe upon the land system of the Austrian States, and the Imperial government at last issued a series of decrees facilitating voluntary arrangements between the peasants and the lords. Here, however, it stopped and no effective changes had been made when the storm of revolution in 1848 swept down upon the country. A month after the March risings in Vienna, the emperor promulgated a constitution for the empire which would have necessitated the ultimate enfranchisement of the soil, but soon the new assembly took the matter out of the hands of the sovereign, and on the 4th of September, 1848, decreed the immediate and entire abolition of the whole feudal régime including the burdens and restrictions on land.

After the reactions of 1849, it might have been expected that the recent reforms in land tenure would be reversed, as in 1814. But the century was too far advanced; the risings of 1848 had been almost as much economic as they had been political, and an element had entered into them which had little place in the revolutions of 1820 and 1830. This new element was a demand not for more political rights only, but for greater material prosperity and economic opportunity for the mass of the people. Therefore, although the political reforms failed, at least temporarily, yet the accompanying reforms in landholding were permanent.

In England the land system had gone through a unique development, and had long resisted any influences from the outside. But even here the spirit of the age was at last felt, and the old citadel of English conservatism, the land system, was attacked. But this work scarcely began before the middle of the century. Up to that time the communal holdings in the form of manorial commons and intermixed fields had been

gradually decaying, it is true, partly under the influence of economic forces, partly as the result of direct legislation. The private acts for the enclosure of commons had been superseded in 1801 by a general enclosure act, and this had been extended and developed in 1845. The feudal burdens had become shadowy, and, with the exception of the few "copyhold" tenures, almost obsolete. Nevertheless, the advantage of these changes had not gone to the peasantry, nor to small farmers of any kind, but to a class of landholding families owning the land in large tracts, and having a grip on it stronger than any other class in Europe. Legislation and the theories of the common law had all been developed to perfect the control of this class over the land, and to keep it within their possession. Entails still existed, the custom of strict settlements made practical entails over a large part of the country, in intestate division primogeniture was recognized; there was no public land registry, the formulas of wills and of deeds had become long, complex and doubtful in meaning, all legal actions relating to landholding were slow, cumbrous and dangerous. The land therefore remained for the most part in the hands of its few owners, and sales were difficult and unusual occurrences. The peasantry had been reduced to a hopeless and helpless class of day laborers, and the intervening class, the tenant farmers, paid a competitive rent to the land owners. The first proposition for changes in the English land system were made after an investigation by a board of real property commissioners about 1830. Little by little after that time minute reforms were carried out. These were principally in the direction of simplification of the processes of purchase, sale, mortgage, and bequest of land, and of its assimilation to other forms of property. In 1838 a means was suggested by which copyhold estates could be transformed into actual property. In 1841 a large step towards this was taken and in successive laws, especially those of 1852 and 1858, the change was practically completed. The net result of all the land legislation of England to this time was absurdly small, yet its general direction was unquestionably the same as that of the contemporaneous

legislation in the continental countries. The Irish land question was brought into recognition by the report of the Devon commission in 1845, and was elevated into the prominence it has never since lost by the famine immediately following that year. But the measures for reform introduced into parliament representing the views of Irishmen were all rejected and the only resulting legislation was the creation of the Encumbered Estates Court, in 1849. This court had large powers for the selling of estates, even when settled by bequests, if they were heavily encumbered, on the appeal either of the holder or of the creditors.

During the whole revolutionary period and the early part of this century, the principal incentive to reform of land tenure was the feeling that the feudal system and communal holdings were unjust, a tyrannical abuse, a privilege of the few at the expense of the many. In abolishing this system the liberal governments simply felt that they were attacking an old injustice. Subsequently, however, the movement toward the enfranchisement of land was reinforced by a second influence, that is, by the strong bent of the economic thought of the time toward individualism, freedom of contract, and absolute ownership. The political economists had no mercy on entails, primogeniture, communistic holdings, government interference or any other limitation to freedom of sale and bequest, or the readiness of disposition and use of land according to the supposed laws of demand and supply. The group of views held and taught by the most influential political economists of the first half of this century therefore worked in the same direction and gave added force to the movement of land reform already long in progress. This influence as it affected the land question may be considered to have reached its height in the decade after 1850.

During that period, in nearly every country in Europe, laws were passed requiring the registry of mortgages and other land operations, facilitating the purchase of encumbered lands by the peasantry, and simplifying judicial procedure in foreclosure and ejectments. Such laws presupposed the abolition

of the feudal system, and were simply improvements in the new order of landholding. Instances of the first of these classes of laws are found in the Belgian law of 1852 and the French law of 1855, and of the second class in the legislation of Saxony, Prussia, Baden and Hesse, to help the peasants to pay the necessary indemnity for their farms, in 1850 and 1851. The Irish acts of 1854 and 1858 are instances of the third class of reforms. Probably it is a mere chance co-incidence that in America, in the State of New York, in the same period, the combined action of the legislature and the courts dissolved the double ownership of the landlord and the tenant in the so-called *leasehold* districts. But the clearest instance of the influence of economic theory on land legislation was in the Irish land law of 1860. This act introduced the simple principle of absolute free contract into the complexity of Irish land conditions. At one stroke it changed the whole relation of landlord and tenant from one of *status* to one of contract. With studied care it disregarded entirely that "tenant-right" which was claimed and believed in by the great mass of Irishmen as the foundation of their tenancy, and which was half acknowledged by earlier, and entirely recognized by later legislation. Before this time the Irish courts had been looked upon as performing the function of determining the relative rights of landlord and tenant; by this law they were restricted to the sole duty of enforcing contracts entered into between landlord and tenant. Thus an attempt was made to put land owning and land renting in Ireland on the same footing as any mercantile operations. The influence of economic teaching on the minds of the English legislators of that time could hardly be shown in a more striking manner than by the passage of such a revolutionary law, reversing the whole development of Irish land history up to that time, and trying to make its system conform immediately to a preconceived theoretic model. A few years later, another example of such influence was found in the new Portuguese code of 1867, and its effect in destroying the old system of land tenure known as *aforamento*. This was a kind of perpetual lease, introduced by the Benedictine

monks in early centuries on their domains, and gradually became the prevailing form of landholding in southern Portugal. A farm held on these conditions could not be divided, and the tenure provided for the payment of a fine on every alienation, either by sale or by bequest. The code of 1867 was professedly based on that of France, and intended to liberate the soil and reconstitute absolute property in land. It prohibited, therefore, payments on occasions of an alienation, as being a feudal recognition, and forbade bequest of all the land of a father to any one child. These two provisions struck at the primary characteristics of the tenure mentioned above, and under their action *aforamento* has since been rapidly passing away. The same influences in Spain have led to the division and sale of much of the property of the communes.

Down to as late a period as 1860, at least, the tendency of land legislation was all in one direction. This was toward making land an object of individual and uncontrolled ownership, of free contract and free disposal; toward making it the object of possession, use, and exchange in just the same way as a piece of furniture, a horse, money, or any other article of personal possession is at the disposal of its owner. Within a period of three quarters of a century the mediæval bases of landholding had been destroyed and an individualistic form of tenure substituted. Private property in land had been created; land had been brought into the category of objects of personal ownership. The laws of the middle of the century, moreover, over all central Europe, seemed to tend toward a further development of the characteristics of the new system.

If, however, we abandon the method of tracing the course of land legislation from the French revolution downward, and beginning with the most recent laws and proposals for laws, trace legislation upward through the last decade or two, we will find ourselves in the midst of a strikingly different tendency. For instance, in last winter's session of the French chambers of deputies, three distinct laws were introduced providing for the compulsory payment by the landowners to an outgoing tenant of the amount by which he has made the farm more

valuable. A law of the same effect was passed in England in 1883, and one of much the same import as early as 1875. The principle was introduced in Scotland in 1885, in the crofters acts, and in Ireland in the land acts of 1870 and 1881. An act for the same purpose was debated in the Belgian parliament in 1888, and although it failed to pass, was only defeated on an unessential argument. In all of these laws and projects of laws the landlord and tenant are forbidden to contract themselves out of their provisions. The normal case therefore would be one where the tenant independently of the landlord, without his participation and even possibly without his consent would put any such expense upon the land as he could make appreciable and then at the expiration of his tenancy collect the proper indemnity from the landowner. There is in this case a considerable deduction from the landowner's complete control of his land. Indeed such a principle when admitted exactly reverses the former policy of assimilating land to other forms of property, and introduces an element of joint double ownership, instead of absolute single possession. Coming from an entirely different origin, it brings in practically the same combined rights to property in the soil as those which existed in the feudal manor.

Again, the Prussian lower house, in September, 1890, passed a law allowing the formation of *Rentengüter*. That is, it permitted the establishment of what are practically perpetual tenancies, on a ground-rent irredeemable except by consent of both parties. This legislation, if completed, would be a return toward such tenures as the Portuguese *asforamento*, Italian *allivellazione*, American lease-holds and ground-rents, and others, which were the especial objects of destructive effort in the legislation of the first half of the century. The idea that land should be tied up in a form difficult of alienation, and incapable either of being resumed by its original grantor or freed from incumbrance by its holder, is one utterly repellent to the spirit of the legislation already discussed, and yet it is the deliberate object of more than one recent proposal.

Still a third instance of reversal of policy is in the matter of

communal lands. In England there were few of these left, but their preservation, instead of enclosure and division, has been the object of successive acts reversing the previous policy, beginning with the "metropolitan commons act" in 1866. The English allotments act of 1886 enabled local authorities to acquire land by compulsory purchase for the purpose, among others, of forming common pastures. On the continent the same feeling has shown itself in an appreciable diminution in the process of selling communal holdings, and a study of the possibilities of utilizing such as remain in a more profitable way. Such a movement is, of course, quite contrary to the old effort to make land an object of ready division and sale. It seems to acknowledge that there are some uses of land which are better served by keeping it in the hands of the community than by distributing it to individuals.

Interferences between landlord and tenant by which the community, as a whole, sees to it that the tenant secures better terms than mere competition has been found to give him, are numerous in recent legislation. The Irish land act of 1870 gave compensation to the tenant for disturbance as well as the compensation for unexhausted improvements already mentioned. The law of 1881, in addition, provided for a government estimate of what was a fair rent, and this the landlord was bound to accept. The same provisions were incorporated in the Scotch crofters acts of 1885 and 1886. The latter also gave the authorities power to take land from the landlords and add it to the crofts of the peasants at an official, not a competitive, rent. Similarly, the allotments act of 1886 gave power to acquire land by compulsory purchase in order to let it to small cultivators. Still more radical propositions have been made by a commission of parliament recently appointed to investigate the question of the distribution of land. These measures certainly represent a very different principle from that typified by the Irish land act of 1860, very different from a régime of pure contractual relation between landlord and tenant.

Thus in at least four different aspects of landholding, recent laws have shown themselves to be of a directly opposite ten-

dency to that of the first half of the century. If these measures of reform of land tenure are followed up they will prove to have this new tendency since about the year 1870. This then was the turning of the tide. Consciously or unconsciously, at one time in one aspect of landholding, at another time in another, agitation, interest, legislation have departed from their old ideas and turned toward new. We have apparently ceased to try to treat land exactly as other forms of property. Recognizing its intrinsic peculiarities, society is struggling with the problems involved in its more just and at the same time equally productive distribution and use. And this, like the earlier movements, is practically contemporaneous in all the countries of Europe. Just as the process of early enfranchisement followed the same general fortunes in each of the countries during one period of modern European history : just as land tenure in the several countries was affected nearly alike by the political currents and countercurrents of the time : just as the influence of political economy came to reinforce the movement in all the countries—so the cessation of the older course of laws came at nearly the same time, and the tendency of recent legislation has been strikingly alike in all Europe.

The movement away from individualism in land owning must therefore be considered as a general one, not confined to any particular country. It is part of the great social movement of our time, turning away from mere freedom of the individual and seeking for a reorganization of the community, disavowing the rule of selfishness however "enlightened," and insisting on some degree of associative action, control and enjoyment.

E. P. CHEYNEY.

*University of Pennsylvania.*

## LAW-MAKING BY POPULAR VOTE ;

OR,

### THE AMERICAN REFERENDUM.

The Referendum is commonly thought of as a political institution peculiar to Switzerland. It is there, truly, that the name has come to have the particular signification which attaches to it to-day, and there that the institution has laid most prominent claim to the notice of students in the science of government, especially since 1874, when it was lifted out of the cantonal systems into the Federal Constitution and given a national recognition. It seems, however, to have been very generally overlooked that here in the United States, in every State of the Union, and also in the municipality, we employ, and in New England have employed since the Revolution, this same popular political principle. The Referendum may be defined as the submission of laws, whether in the form of statute or constitution, to the voting citizens for their ratification or rejection, these laws having been first passed upon by the people's representatives, assembled in legislature or convention. By a narrower definition the name might be held to apply only to laws submitted by a legislature, but the people when they vote upon a constitution or an amendment to a constitution are engaged in what is quite as much a legislative act as voting on a statute law, and especially is this so in our American States at the present time since the framers of constitutions have enlarged the concept and, therefore, altered the nature of the term constitution.

Although my province in this paper is to review the direct share of the people in the making of their laws in the United States, it may be well, in the first place, to look briefly at the Referendum as it has been developed in Switzerland. The name, Referendum, if traced back to its origin, could be shown to be very old, some writers even stating that it was in use in several

Alpine cantons as early as the sixteenth century. At any rate the delegates from the cantons to the early Federal Diets were only empowered to assent to important measures *ad referendum*, that is, subject to the approval of the governments which sent them. The institution in the perfected form in which it appears in Switzerland to-day is a development of this century. Beginning in some of the Teutonic cantonal governments, the outgrowth of the *Landsgemeinden* and the extreme democratic political inclinations of a people bred in the traditions of a folk-mote system of government, it very soon fastened itself firmly in public favor. To-day every one of the twenty-two cantons in the Confederation employs the Referendum in some of its forms, not excepting Freiburg whose clerical majorities, however, have up to this time been able to prevent its introduction except in the matter of a revision of constitution.

In two cantons, Uri and Glarus, and in the two half-cantons of Appenzell, and the two half-cantons of Unterwalden, the *Landsgemeinde* still survives. On account of increase of population, and the resulting cumbrousness of legislation by mass-meeting, it has been abandoned within recent times in Schwyz and Zug. The *Landsgemeinde* is only a means of securing the Referendum without the expense or trouble of a ballot, and is possible only in a district of small territorial extent and small population. Each of these two cantons and four half-cantons has an executive power—the *Regierungsrath*—and a representative assembly—the *Landrath*. Laws are framed and prepared for enactment by this representative assembly, but it has no powers beyond those of a committee, everything being referred for ratification, rejection or amendment to the people who meet semi-annually in the *Landsgemeinde*.

In other cantons the Referendum takes simpler forms. Two kinds are distinguishable, the compulsory and the optional. The compulsory Referendum is one made obligatory by the cantonal constitution according to which laws cannot go into effect until ratified at the polls by the people. The optional Referendum is one in which there is no element of obligation, the act of submission only taking place if the people desire it.

If a certain number of signatures of voting citizens are not received within a specified time after the representative legislature approves a law it goes into force without a popular vote. These two forms exist side by side in many of the cantons and it is not easy to make a correct classification. In all the cantons, however, Freiburg included, there is a compulsory Referendum on every proposition to alter or amend the cantonal constitutions.

The Federal Referendum has existed in its present form in Switzerland since the adoption of the amended Constitution of 1874. Besides a compulsory Referendum on constitutional amendments, the Constitution contains the following guaranty of an optional Referendum :—"Federal laws as well as Federal decrees—if not of an urgent nature—must be submitted to popular vote upon demand of 30,000 qualified voters or eight cantons." The outcome of the experiment in nationalizing the Referendum has been watched with great interest by political observers everywhere. In four years, from 1875 to 1879, the people demanded the Referendum on eight laws. In sixteen years the Referendum has been taken on about twenty-five laws, including several constitutional amendments, or an average of about three in two years. The judgment of the people may be considered for the most part to have been expressed very intelligently, if we except the votes on a number of laws submitted during the period from 1879 to 1885 when there was a wave of extreme jealousy of the Federal influence and a fear in the cantons that they were being overshadowed by the Berne government. For a time the Referendum was demanded on nearly all the laws of much importance which the Chambers passed and without regard to their character or value they were defeated by large majorities.

The adversaries of the Referendum are few in Switzerland. The Ultra-Clericals and Conservatives originally opposed it, but as they have found it, in the case for instance of the re-establishment of the death penalty and the rejection of several laws looking toward centralization, to be reactionary rather than reformatory, their opposition has been partially

allayed, and indeed many leaders of the party are now its earnest supporters. Of late there seems to be less hostility to legislation tending towards centralization if the votes on the liquor monopoly, the bankruptcy code and the insurance law signify anything.

Perhaps it may not be fair to make the assumption that the New England town-meeting has had any direct influence upon the development of the Referendum in this country as the *Landsgemeinde* had in Switzerland. At any rate it is a coincidence that of the thirteen original States only two submitted their first Constitutions to popular vote, and these were Massachusetts and New Hampshire where the people had long met together in town-meetings to make their local laws. It has been asserted that in the other States the propriety of submitting the first Constitutions was not denied, but the Tories forming so uncertain a quantity, it was thought dangerous to call for a popular vote.<sup>1</sup> How this may have been it is not my present purpose to inquire. One good reason why only New Hampshire and Massachusetts followed this plan can doubtless be found in the fact that the States outside of New England had no easy or economical method of getting an expression of the popular judgment. In the town-meeting the people could be reached directly and while assembled to do the public business of their respective communities could at the same time confer upon matters affecting the State government. Connecticut and Rhode Island, remaining under their old Charters until 1818 and 1842, respectively, furnish no confirmatory evidence as to the relations between the town-meeting and the Referendum, for though their first Constitutions were submitted to popular vote the custom had by this time taken deep root all over the country. Vermont accepted her first Constitution from a Convention without a Referendum. There was a general feeling, though, that it was not the correct procedure, but the long boundary contests in which she had been engaged with Massachusetts, New Hamp-

<sup>1</sup> Jameson on Constitutional Conventions, p. 499.

shire and especially, New York, made it seem unwise to take the risk of consulting the people.

In 1778 the General Court of Massachusetts prepared a Constitution which was rejected in the town-meetings. A Convention was called and after long labors another Constitution was submitted in 1780, which was ratified, and by more than two-thirds of those who voted. The Constitution provided that in 1795 the voters of the towns and plantations should express themselves upon the question of revision.<sup>1</sup> There was, doubtless, an influence in securing such a speedy ratification, in the knowledge that if the Constitution proved unsatisfactory or inadequate the people were to be guaranteed a part in amending it.

There was still greater difficulty in getting a Constitution to the taste of the people of New Hampshire. One submitted in 1779 was rejected, another submitted in 1781 was so much amended in the town-meetings that the Convention began work all over again and finally completed a document which was approved by the people in 1784. Here, then, in these two New England States the Referendum first appears in America, and in a very vigorous form, the people fully appreciating and asserting their right to direct consultation by their representatives.

In Pennsylvania, not a year after the Constitution of 1776 was adopted by Convention and put into effect, we learn there was much dissatisfaction among the people. The Supreme Executive Council addressed an order to the General Assembly, representing "that they are sorry to find the present Constitution of this State so dissatisfactory to any of the well affected inhabitants thereof and would gladly concur in any suitable and safe measure for the removal of this uneasiness; that they are of opinion this might be greatly attained by taking the sense of the majority of the electors throughout the counties on the important question whether a Convention be holden at some proper time to reconsider the frame of

<sup>1</sup> Chapter VI, Art. X.

government formed by the late Convention, etc."<sup>1</sup> This recommendation seems to have met with no response during the ensuing war excitement. In 1790, after the Federal government had been established the need of a new Constitution was satisfied in a Convention called for that purpose by order of the Assembly. The recommendation by the old Executive Council that "the sense of the majority of the electors throughout the counties" be taken, was not heeded and again a Constitution was prepared and went into force without coming directly to a vote of the people. None of the thirteen original States, indeed, followed the example of Massachusetts and New Hampshire, until New York led the way in 1821.

About fifteen years after the century opened, it came to be a generally recognized principle that to the people of the States belonged a direct voice in deciding what their governments should be. Mississippi and Missouri<sup>2</sup> when they came into the Union had Constitutions which had been adopted by direct popular vote. The Constitution of New York about 1820 became notably unsatisfactory. Governor Clinton in a message to the Legislature recommended: First.—That the question of calling a Convention should be submitted to the people and decided by them by a majority vote at the polls of election; and Second :—That if a Convention should in this way be called that the doings thereof should again be referred to the people for their confirmation or rejection.<sup>3</sup> A bill was passed by the Legislature according to the Governor's recommendations; the people voted "Convention" or "No Convention," with a large majority in the affirmative, and a subsequent act ordering the election of delegates stated that it should be the duty of the said Convention to submit their proposed amendments to the decision of the citizens of the State, entitled to vote under this act, together or in distinct

<sup>1</sup> Colonial Records, Vol XI, p. 220.

<sup>2</sup> Mississippi, 1817; Missouri, 1820.

<sup>3</sup> Hammond's History of Political Parties in the State of New York, Vol. I, p. 539.

propositions as might appear most expedient.<sup>1</sup> From this time on, most of the new States came into the Union with Constitutions which had received the direct sanction of the people, and the old States, as fast as new Constitutions were thought to be necessary, adopted the same process. The town-meeting principle had developed into the Referendum and it was a firmly established institution the country over. To-day, the people of not more than one or two States in the Union would be likely to be denied, nor would they permit themselves to be denied, the right to pass upon the form and frame of their government. It is a significant fact that the Constitution of Mississippi adopted last fall was not voted upon at the polls.

From this habit of employing the Referendum, in the case of new constitutions, grew up naturally the Convention Referendum and the Amendment Referendum. Perhaps these latter were hastened in their coming by a recognition of the fact by those who had the ordering of these things, that if a constitution was to be submitted to the people with the expectation of having it ratified, some means would have to be devised by which they could change it if it proved in any way unsatisfactory. A section in the New Hampshire Constitution of 1792 provided, that the people should vote once every seven years whether a convention for revision should be called or not, and, further, that no alteration should be made before the same should be "laid before the towns and unincorporated places, and approved by two-thirds of the qualified voters present and voting on the subject."<sup>2</sup> The right of the people to determine whether they would alter their government, and if so, in what manner, was here plainly expressed. This Constitution is still in force in New Hampshire and a number of amendments have been made by this clumsy process.

Amendment by convention was at the beginning the only means of amendment and the question as to when a convention should be called for purposes of revision very soon came to be a subject for a Referendum. This is now the uniform method

<sup>1</sup> *Id.* Pages 559 and 560.

<sup>2</sup> Sections 99 and 100.

when a new constitution is wanted, or the old one requires radical revision. When to submit the question of calling a convention is usually left to the judgment of the legislature. Ordinarily a majority vote of the people decides the matter, but the Constitution of Kentucky of 1850,<sup>1</sup> required not only a majority of those voting on the question, but of all the electors in the State qualified to vote for State representatives, and, to make the conditions yet more difficult of fulfilment, this vote must be secured at two successive elections, a feat only accomplished in 1889. Delaware finds this kind of a majority vote necessary also, but it is sufficient if expressed at one election.<sup>2</sup>

To find a method of amendment easier than by convention was reserved for Connecticut in 1818, when the Amendment Referendum was invented in the form it has since very generally taken, the passage of two successive legislatures followed by a vote of the people.<sup>3</sup> A Convention met in Massachusetts in 1821 to propose amendments to the State Constitution and a few months later a body of delegates met in New York for a similar purpose. Among the articles proposed to the people of each State for their approval or rejection was the Connecticut plan. Henceforth the Amendment Referendum by legislature became an admittedly necessary feature in every State government. The constitutions prescribe several different forms of treatment before the legislatures may submit amendments. Most in favor is, either the passage by two-thirds of the members of each house of one legislature, or a passage by a simple majority through two successive legislatures. There are other plans in States which have old constitutions.<sup>4</sup> In

<sup>1</sup> Article XII.

<sup>2</sup> Constitution of 1831, Article IX.

<sup>3</sup> Article XI, Constitution of 1818.

<sup>4</sup> Two-thirds passage through ~~one~~ Legislature: Alabama, Colorado, Georgia, Idaho, Illinois, Kansas, Louisiana, Maine, Michigan, Mississippi, Montana, Texas, Washington, West Virginia and Wyoming.

Majority passage through one Legislature: Arkansas, Minnesota, Missouri, and South Dakota.

Three-fifths passage through one Legislature: Florida, Maryland, Nebraska, North Carolina and Ohio.

Majority passage through two successive Legislatures: California, Indiana, Iowa, Nevada, New Jersey, New York, North Dakota, Oregon, Pennsylvania, Rhode Island, Virginia and Wisconsin.

Delaware alone the people have no direct share in constitutional amendment by legislature.<sup>1</sup> In every other case they are given the final disposition, except in South Carolina, where, after passing the legislature once, then going to the people, amendments revert to the legislature again.<sup>2</sup>

It is proper to remark here, however, that from the simple statement that the people of the States vote upon their constitutions, and the amendments thereto, one can form but a very incomplete idea of what this right really means. It is only after considering the nature of the content of these constitutions that the Referendum as exemplified in America is seen to have its closest likeness to the Swiss Referendum. When it is remembered that in these days the American State constitutions are codes of laws limiting the Legislature to a short biennial session, defining in detail what it may and may not do in that short session, there is a better understanding of how great a direct force in the enactment of the laws the people have become.

Majority of one Legislature and two-thirds of the next: Connecticut and Tennessee.

A majority in the Senate and a two-thirds vote in the House of Representatives, two Legislatures: Massachusetts, New Hampshire, and Vermont amend only by convention, and in the latter State the people are not consulted directly. The amendments are prepared by a council of censors which meets septennially and they are ratified by a convention elected for the purpose.

<sup>1</sup> Constitution of 1831, Article IX. "The general assembly, whenever two-thirds of each House shall deem it necessary, may, with the approbation of the Governor, propose amendments to this Constitution, and at least three, and not more than six months before the next general election of representatives, duly publish them in print for the consideration of the people, and if three-fourths of each branch of the Legislature shall, after such an election and before another, ratify the said amendment, they shall be valid to all intents and purposes as part of this Constitution."

<sup>2</sup> Constitution of 1868, Article XV, Section 1. "Any amendment or amendments to this Constitution may be proposed to the Senate or House of Representatives. If the same be agreed to by two-thirds of the members elected to each House, such amendment or amendments shall be entered on the journals, respectively, with the yeas and nays taken thereon; and the same shall be submitted to the qualified electors of the State at the next general election thereafter for representatives, and if a majority of the electors qualified to vote for members of the general assembly, voting thereon, shall vote in favor of such amendment or amendments, and two-thirds of each branch of the next general assembly shall, after such an election, and before another, ratify the same amendment or amendments by yeas and nays, the same shall become part of the Constitution: Provided, That such amendment or amendments shall have been read three times, on three several days, in each house."

Instead of a representative law-making body which shall meet once a year, the people are showing a preference for a representative law-making body which shall meet once in ten or twenty years and which submits its work for their approval or disapproval at the polls. There is thus a tendency toward taking our laws in bulk from a convention instead of in small lots each year from a legislature; the code to be changed at intervals when it may need it by the initiation of the legislature and the ratification of the people. Matters which were once left to the legislature are now dealt with in the constitutions. To illustrate, the following are now deemed suitable subjects to be treated in State constitutions:—the prohibition or chartering of lotteries, the prohibition or regulation of the liquor traffic, the establishment of tax-rates, the founding and location of schools and asylums, regulations relating to the rights and duties of railroads and other corporations and defining the relations of husbands and wives, and debtors and creditors, the establishment of a legal rate of interest, the salaries of public officials, etc., etc. Indeed there are now few matters, which are subjects for legislation at all, that may not, according to the new conception of a constitution, be dealt with by the conventions.

The change in the character of the constitutions has of necessity radically altered the character of amendments. Legislation has, of late years, been more and more disguised in these amendments and sent to the Referendum. In line with this tendency to much amendment is the accompanying tendency to easy amendment. In nearly all the new States and those older ones which have Constitutions recently adopted, the time in which amendments may be effected is reduced by one half. While previously the endorsement of two successive Legislatures was the prevalent plan before submitting to the people a proposition for constitutional change, now passage through one Legislature is coming to be considered sufficient. This greater facility in amendment is one of the demands of the time. If a constitution is to enter into the technique and detail of government and trespass on those

fields of action before reserved to the Legislature, it cannot have that character of permanence which it had when it was only an outline to direct the Legislature. It must change as laws change, and laws must change as the needs of the people change. Whether this has a tendency to degrade the Legislatures or not I shall not discuss. Certain classes of amendments, it may be observed, it has become the custom for Legislatures to submit to the people without the deliberation which would be given to statute laws upon the same subjects. This is notably the case with amendments to prohibit the manufacture and sale of intoxicants, and those relating to woman suffrage. In the treatment of prohibition, especially in the Eastern States, this tendency of later years is very manifest. It is usual for few members of the Legislature which passes such an amendment to vote for it affirmatively at the polls.

In some States in which an amendment must pass two Legislatures, and where it is not especially otherwise provided by the constitution, amendments are often voted upon at special elections, when, it is contended, there is better chance to get an intelligent expression of public opinion, both because the people are then less occupied with other matters involving the triumph and defeat of particular men, and on account of lessening the evils of electoral barter and kindred forms of corruption likely to exist when general issues are being decided. The extra expense of opening and equipping the polls is on the other hand urged against the habit of special elections. The ballots take different forms in different States, and are usually drawn up as briefly as possible. If it is a prohibition amendment the tickets are likely to read simply, "For the Prohibition Amendment" and "Against the Prohibition Amendment." Others are given very popular names as "Judiciary Amendment," "Suffrage Amendment," "Tax Amendment," etc.

It is not necessary however to search under the disguises of these constitutional amendments to find law-making by Referendum in the American State. Statutory legislation on

certain classes of subjects is passed by the Legislatures on condition that it be approved by the people. Probably the first subject of this kind to be put to popular vote was the location of State capitals, a Referendum which was first recognized in a Constitution in Texas, in 1845.

In order permanently to settle the matter it was provided that an election be held on the first Monday of March 1850 at which the question of the location of the seat of government should be put to vote.<sup>1</sup> This has since come to be a matter to be left altogether to the vote of the people in States which make any pretense to conducting affairs on a modern and progressive basis. A section of Article III of the Constitution of Pennsylvania reads: "No law changing the location of the capital of the State shall be valid until the same shall be submitted to the qualified electors of the Commonwealth at a general election, and ratified and approved by them." Similar provisions are to be found in the Constitutions of fifteen States, including all the new States and Mississippi, and in very few of the rest would the Legislatures be likely to pass such laws without referring them to the people.

Another kind of Referendum was invented by Iowa and appears in the first Constitution of that State framed in 1846, though it was suggested in an amendment to the Constitution of Michigan three years before.<sup>2</sup> This declares that laws for the contraction of debt, except those specified by the Constitution, shall be submitted to popular vote. The clause referred to in the Constitution of Iowa reads as follows: "Except the debts hereinbefore specified in this article, no debt shall be hereafter contracted by or on behalf of this State unless such debt shall be authorized by some law for some single work or object to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax sufficient to pay the interest on such debt as it falls due, and also to pay and discharge the principal of such debt within twenty years from the time of the contracting thereof; but no

<sup>1</sup> Constitution of 1845, Art. III, Sec. 35.

<sup>2</sup> Constitution of 1835, Michigan. Amendment ratified 1843.

such law shall take effect until at a general election it shall have been submitted to the people and have received a majority of all the votes cast for or against it at such election."

On referring to the article on the "debts hereinbefore specified" it is seen that these, without the popular approval, can be contracted only to the aggregate amount of \$250,000 and this only to supply "casual deficits or failures in revenue." Unlimited power exists, however, to contract debts to repel invasion or suppress insurrection.

The Convention to frame a new Constitution for the State of New York which convened soon after, took this debt Referendum from Iowa with no material modification except to raise the limit for the supply of "casual deficits" to \$1,000,000, a figure more in keeping with the greater needs and requirements of the State. This Referendum has since become, with varying casual debt limits, very popular with Western Constitutional Conventions. California puts the limit at \$300,000; Illinois, \$50,000 in 1848, raised to \$250,000 in 1870; Kansas, \$1,000,000; Kentucky, \$500,000; Missouri, \$250,000; Montana, \$100,000; The State of Washington, \$400,000; Idaho not above the sum of one and a half per centum upon the assessed value of the taxable property in the State; and Wyoming, in any year, not above the revenues of that year.

Another Referendum which found its way into the State Constitutions mainly during the bank excitement appears first in Iowa, in 1846, in the following form: "No act of General Assembly authorizing or creating corporations or associations with banking powers, nor amendments thereto, shall take effect or in any manner be in force until the same shall have been submitted separately to the people, at a general or special election, as provided by law, to be held not less than three months after the passage of the act, and shall have been approved by a majority of all the electors voting for and against it at such election."<sup>1</sup> There are provisions similar to this in the Constitutions of Illinois, Kansas, Michigan, Missouri and

<sup>1</sup> Constitution of 1846, Iowa, Art. VII., Sec. 5.

<sup>2</sup> Iowa, Constitution of 1846, Article VIII, Section 5; also Constitution of 1857.

Ohio. Wisconsin goes to even greater lengths to protect the people from "wild-cat" banking, and the Constitution after declaring that the Legislature shall have no power to incorporate banks or banking companies says: "The Legislature may submit to the voters at any general election the question of 'bank or no bank'; and if at any such election a number of votes equal to a majority of all the votes cast at such election on that subject shall be in favor of banks then the Legislature shall have power to grant bank charters or to pass a general banking law with such restrictions and under such regulations as they may deem expedient and proper for the security of the bill holders: *Provided*, that no such grant or law shall have any force or effect until the same shall have been submitted to a vote of the electors of the State at some general election and been approved by a majority of the votes cast on that subject at such election."<sup>1</sup> This is in the form of a double Referendum, and is a remarkable evidence of existing faith in the wisdom and discernment of the people and of deep seated distrust for Legislatures.

Another interesting Referendum appeared in the Constitution of Colorado in 1876 which is patterned after by Montana and Idaho. As it occurs in Colorado it takes this form:—"The rate of taxation on property for State purposes, shall never exceed six mills on each dollar of valuation and whenever the taxable property within the State shall amount to \$100,000,000 the rate shall not exceed four mills on each dollar of valuation; and whenever the taxable property within the State shall amount to \$300,000,000 the rate shall never thereafter exceed two mills on each dollar of valuation, unless a proposition to increase such rate, specifying the rate proposed, and the time during which the same shall be levied, be first submitted to a vote of such of the qualified electors of the State as in the year next preceding such election shall have paid a property tax assessed to them within the State, and a majority of those voting thereon shall vote in favor thereof in

1. Wisconsin, Constitution of 1848, Article XI, Section 5.

such manner as may be provided by law."<sup>1</sup> Idaho and Montana express this Referendum in much the same words except that the mill rates and valuation limits differ. The question is, in these States, moreover, submitted to all the qualified voters instead of property tax payers only.

There are numerous examples of the Referendum in many other States. The Constitution of Illinois provides that the Illinois and Michigan Canal shall never be sold or leased but upon a vote of the people.<sup>2</sup>

An amendment to the Constitution of Minnesota states that no laws levying a tax or making other provision for the payment of the interest or principal of the bonds of the Minnesota State Railroad are to have any force until approved by the people.<sup>3</sup>

The Legislature of North Carolina by the Constitution of 1876 was denied power to loan the State credit in aid of any person, association or corporation, except to help in the completion of such railroads as may have been unfinished at the time of the adoption of the Constitution, unless the subject be first submitted to the people.<sup>4</sup>

The school lands of the State of Kansas can never be sold but with the consent of the people.<sup>5</sup>

The Constitution of Colorado gave to the Legislature power to pass a law creating a debt for the erection of public buildings, provided this was ratified in the Referendum.<sup>6</sup>

In Illinois, the Legislature, by the Constitution of 1870, was restricted in its expenditure on the new capital grounds and state house to \$3,500,000. Any proposition for additional expenditure was to be voted on by the people.<sup>7</sup>

In Colorado, the Constitution provides that the question of woman suffrage may at any election be submitted to the people.<sup>8</sup>

1. Article X, Section 11.

2. "Additional Section," Article X, Constitution of 1870.

3. Amendment to Constitution of 1857, ratified 1860.

4. Article V, Section 4.

5. Constitution of 1859, Article VI, Section 5.

6. Constitution of 1876, Article XI, Section 5.

7. Article IV, Section 33.

8. Article VII, Section 2.

The location of a college for the education of the negro youth of the State was by the last Constitution of Texas left to the people.<sup>1</sup>

The sites of the State university, insane asylum and penitentiary are to be voted on by the people of Wyoming, after the expiration of ten years, and all new State institutions are to be located only on popular vote.

A plan of proportional representation in the upper chamber of the State Legislature was made a matter for popular action in West Virginia by the Constitution of 1872.<sup>2</sup>

Besides these Referendums made imperative by the Constitution, there have been Referendums ordered by State Legislatures, on matters to which it was certain that one important class of the people was agreed and another important class was opposed, and which the Legislatures were unwilling to decide upon themselves. In more recent years this form of the Referendum is not common. Its constitutionality has been seriously questioned<sup>3</sup> and since the constitutions have come to be enlarged it is more convenient to bring these questions before the people as amendments.

There remains the Municipal Referendum. To-day, especially in the West, there are very important examples of the Referendum in local matters. There are County Referendums, City Referendums, Township Referendums and School District Referendums. Some of these we have found to our advantage to adopt in the local communities of the East; even Mississippi in her last Constitution guarantees to the people of the counties certain referendums, and Texas and Missouri under the influence of the progressive political civilization of the West in which since the war they have been partial participants, in their last Constitutions recognize as vested in the people a veto on various types of local legislation.

Just as the people of the States have come to be consulted in the location of State capitals, the people of the counties

1. Article VII, Section 14.

2. Article VI, Section 50.

3. *Rice vs. Foster*, 4 Harr. (Del) R. 479, a case directly in point, and other cases.

have come to be consulted in the location of county seats. Nineteen constitutions make this guaranty. The change of county lines, the division of counties into two or three, etc., another matter lying very near to the hearts of the people, is usually left to be settled by Referendum. Twenty-four State constitutions agree in reserving this right to the counties. The people of the counties of several Western States can determine when they shall adopt township organization, and cities, in other States, can decide only by popular vote, when they shall be organized by the Legislature into separate counties.

As in the State, there are debt and tax matters which may be passed upon only by the people of cities, boroughs, counties, school districts, etc. In Pennsylvania no municipality may contract debt above two per cent. upon the assessed value of the taxable property therein without a Referendum. In some other States the municipal indebtedness is limited in any year by the revenue thereof, unless assent to incur further liability is given by a majority or a two-thirds vote of the people, as the case may be. The new States of the West altogether prohibit the creation of loans, except upon the people's authority. In some States there are limits to the tax rates beyond which the municipal authorities may not go unless the people agree. In some communities the local credit may be loaned to railroads, water, and other corporations if the people decide affirmatively in the Referendum. Cities along the Gulf of Mexico in the State of Texas are privileged by the Constitution of the State to make harbor improvements after consulting the people.

Then, as in the State, the prohibition of the liquor business is often left to the people of cities and counties. These "dry" and "wet" contests have come to be very common in many States where there is local option by Constitution or statute.

The newest and most interesting form of our municipal Referendums we find in California and the State of Washington where city charters and all amendments thereto are submitted for popular approval or rejection. This is the first appearance of

anything like republican government in our American cities and it may be the step towards a much-needed and effective reform. Certain it is that if these charters come to be as comprehensive and as much like codes of laws as the State Constitutions have grown to be, there will be diminished opportunity for the evils at present so conspicuous in American city government. In April, 1887, the people of California voted upon and accepted an amendment<sup>1</sup> to the Constitution which took the framing of city charters out of the hands of the Legislature. It provides that any city with over 10,000 inhabitants "may frame a charter for its own government." This is the process. A board of fifteen freeholders, men, who have for at least five years been qualified electors of the State is elected. These freeholders are entrusted with preparing a charter for submission to the people of the city. If it is accepted by a majority vote, then it must be sent to the Legislature "for its approval or rejection as a whole without power of alteration or amendment, and if approved by a majority vote of the members elected to each house" it becomes the charter of the city. It is provided further that: "The charter so ratified may be amended at intervals of not less than two years by proposals therefor, submitted by legislative authority of the city to the qualified voters thereof, at a general or special election held at least sixty days after the publication of such proposals and ratified by at least three-fifths of the qualified electors voting thereat and approved by the Legislature as herein provided for the approval of the charter."

It will be seen that there is a chance here for the interference of the Legislature, a right that it might exercise autocratically. Yet it must always either approve or not approve; there is no power of amendment or revision to suit any particular ideas that may be held by a majority of the Legislature. It is nothing more than a power of veto and though the experience in California has been short there has not yet developed in the Legislature any disposition to thwart the popular will. Two years ago Stockton, San Jose, Los An-

1. Article XI, Sec. 8.

geles and Oakland made new charters which were accepted by the people and the Legislature obligingly ratified them.<sup>1</sup>

When Washington came into the Union she brought with her a Constitution in which there is a very similar article.<sup>2</sup> Here, however, only cities of 20,000 population can take advantage of the charter Referendum. There is the difference, and it may prove to be a very important one, that the Legislature has no power of veto. After being framed by the board of fifteen freeholders the charter is submitted and if approved by a majority immediately becomes the organic law of the city.

In general, then, and to recapitulate, the people of the States of the United States are conceded to have by the development of over a century certain rights to direct consultation by the Legislatures in the making of constitution and statute law. The people in practically every State are competent and they alone are competent to decide whether they shall have a new form of government. This is the Convention Referendum as we have seen, when the vote is upon "Convention" or "No Convention." If they decide for a new form of government it rests with them to determine what that new form shall be—when the people vote "For the Constitution" or "Against the Constitution." Then at any time they only shall say how this form of government shall be altered or amended—when the people vote for or against the amendments. These matters all concern the nature and form of the government, which the people are by location and circumstances forced to live under and obey.

The following subjects, as we have seen, are not submitted to the Referendum in all the States, or in the States of any one section, but have been looked upon very generally as subject to popular disposal. First, the location of the seat of government. The people having the guaranty of determining their form of government might naturally be allowed the right of saying where that government shall be administered. This came into practice with the civilization that sprang up on the

1. Editorial in San Francisco *Alta-California* (newspaper).

2. Article XI Section 10, Constitution of 1889.

frontier, and the jealousies that naturally arose among rival towns for the honor. There have been several amusing illustrations of this recently in the States of Washington, North Dakota and especially South Dakota. Secondly, in matters bearing upon the collection and expenditure of the public money, banking, etc., questions of public policy which come very intimately into the daily life of the settlers of the western prairies where these Referendums were first employed and have found their fullest development. And thirdly, questions upon which there are bound to be vigorous and violent differences of opinion and which the Legislatures decline to take responsibility for, as, to-day, prohibition, woman suffrage and, in Louisiana, the chartering of a great lottery, and, in the last generation, the question of slavery.

The municipal Referendums, as I have indicated, will allow of very much the same classification: the kind of government, city or borough, the question of township organization and in two States, city charters; the location of the county capitals; tax and revenue matters; prohibition and questions upon which the people are likely violently to disagree.

Just what is in store for us in the future in the nature and growth of the Referendum must be wholly a matter of speculation. There is reason to think that the people will be brought into more intimate relation with their municipal governments at a very near date. The Referendum has become an issue in the communal politics of Belgium,<sup>1</sup> and, here as there, a devotion to the institution as a means to political reform is developing which may lead to more important results than any which have yet been attained.

In the States a progress can be traced which may portend continued and still greater progress. What another era of Constitution building may bring forth none can tell. The Referendum may never reach the general constitutional form here that it now has in Switzerland, but it is interesting to note what a member of the Convention which in 1873 framed the present Constitution of Pennsylvania proposed and argued

1. *Le Referendum*, M. Georges Lorand. Brussels: 1890.

for.<sup>1</sup> Mr. Samuel C. T. Dodd, Delegate-at-large from Venango County, maintained in a speech on the floor of the Convention that laws should be referred to the people. In the section of the Constitution he advocated, the option, however, was made to rest, not with the people as in Switzerland, but with the Legislature. As proposed it read: "The Legislature shall have power to refer the adoption or rejection of any law to a vote of the qualified electors of the State, or that portion of the State to be affected thereby." There have been similar propositions before the Conventions of other States.

ELLIS PAXSON OBERHOLTZER.

*Philadelphia, Pa.*

1. Debates Pennsylvania Convention 1873, Vol. II. pages 587-588.

## SOME NEGLECTED POINTS IN THE THEORY OF SOCIALISM.

The immediate occasion for the writing of this paper was given by the publication of Mr. Spencer's essay, "From Freedom to Bondage";\* although it is not altogether a criticism of that essay. It is not my purpose to controvert the position taken by Mr. Spencer as regards the present feasibility of any socialist scheme. The paper is mainly a suggestion, offered in the spirit of the disciple, with respect to a point not adequately covered by Mr. Spencer's discussion, and which has received but very scanty attention at the hands of any other writer on either side of the socialist controversy. This main point is as to an economic ground, as a matter of fact, for the existing unrest that finds expression in the demands of socialist agitators.

I quote from Mr. Spencer's essay a sentence which does fair justice, so far as it goes, to the position taken by agitators: "In presence of obvious improvements, joined with that increase of longevity, which even alone yields conclusive proof of general amelioration, it is proclaimed, with increasing vehemence, that things are so bad that society must be pulled to pieces and reorganized on another plan." The most obtrusive feature of the change demanded by the advocates of socialism is governmental control of the industrial activities of society—the nationalization of industry. There is also, just at present, a distinct movement in practice, towards a more extended control of industry by the government, as Mr. Spencer has pointed out. This movement strengthens the position of the advocates of a complete nationalization of industry, by making it appear that the logic of events is on their side.

In America at least, this movement in the direction of a broader assertion of the paramount claims of the community,

\* Introductory paper of "A Plea for Liberty"; edited by Thomas Mackay.

and an extension of corporate action on part of the community in industrial matters, has not generally been connected with or based on an adherence to socialistic dogmas. This is perhaps truer of the recent past than of the immediate present. The motive of the movement has been, in large part, the expediency of each particular step taken. Municipal supervision, and, possibly, complete municipal control, has come to be a necessity in the case of such industries—mostly of recent growth—as elementary education, street-lighting, water-supply, etc. Opinions differ widely as to how far the community should take into its own hands such industries as concern the common welfare, but the growth of sentiment may fairly be said to favor a wider scope of governmental control.

But the necessity of some supervision in the interest of the public extends to industries which are not simply of municipal importance. The modern development of industry and of the industrial organization of society makes it increasingly necessary that certain industries—often spoken of as “natural monopolies”—should be treated as being of a semi-public character. And through the action of the same forces a constantly increasing number of occupations are developing into the form of “natural monopolies.”

The motive of the movement towards corporate action on the part of the community—State control of industry—has been largely that of industrial expediency. But another motive has gone with this one, and has grown more prominent as the popular demands in this direction have gathered wider support and taken more definite form. The injustice, the inequality, of the existing system, so far as concerns these natural monopolies especially, are made much of. There is a distinct unrest abroad, a discontent with things as they are, and the cry of injustice is the expression of this more or less widely prevalent discontent. This discontent is the truly socialistic element in the situation.

It is easy to make too much of this popular unrest. The clamor of the agitators might be taken to indicate a wider prevalence and a greater acuteness of popular discontent than actually exists; but after all due allowance is made for exag-

generation on the part of those interested in the agitation, there can still be no doubt of the presence of a chronic feeling of dissatisfaction with the working of the existing industrial system, and a growth of popular sentiment in favor of a leveling policy. The economic ground of this popular feeling must be found, if we wish to understand the significance, for our industrial system, of the movement to which it supplies the motive. If its causes shall appear to be of a transient character, there is little reason to apprehend a permanent or radical change of our industrial system as the outcome of the agitation; while if this popular sentiment is found to be the outgrowth of any of the essential features of the existing social system, the chances of its ultimately working a radical change in the system will be much greater.

The explanation offered by Mr. Spencer, that the popular unrest is due essentially to a feeling of *ennui*—to a desire for a change of posture on part of the social body, is assuredly not to be summarily rejected; but the analogy will hardly serve to explain the sentiment away. This may be a cause, but it can hardly be accepted as a sufficient cause.

Socialist agitators urge that the existing system is necessarily wasteful and industrially inefficient. That may be granted, but it does not serve to explain the popular discontent, because the popular opinion, in which the discontent resides, does notoriously not favor that view. They further urge that the existing system is unjust, in that it gives an advantage to one man over another. That contention may also be true, but it is in itself no explanation, for it is true only if it be granted that the institutions which make this advantage of one man over another possible are unjust, and that is begging the question. This last contention is, however, not so far out of line with popular sentiment. The advantage complained of lies, under modern conditions, in the possession of property, and there is a feeling abroad that the existing order of things affords an undue advantage to property, especially to owners of property whose possessions rise much above a certain rather indefinite average. This feeling of injured justice is not al-

ways distinguishable from envy ; but it is, at any rate, a factor that works towards a leveling policy. With it goes a feeling of slighted manhood, which works in the same direction. Both these elements are to a great extent of a subjective origin. They express themselves in the general, objective form, but it is safe to say that on the average they spring from a consciousness of disadvantage and slight suffered by the person expressing them, and by persons whom he classes with himself. No flippancy is intended in saying that the rich are not so generally alive to the necessity of any leveling policy as are people of slender means. Any question as to the legitimacy of the dissatisfaction, on moral grounds, or even on grounds of expediency, is not very much to the point ; the question is as to its scope and its chances of persistence.

The modern industrial system is based on the institution of private property under free competition, and it cannot be claimed that these institutions have heretofore worked to the detriment of the material interests of the average member of society. The ground of discontent cannot lie in a disadvantageous comparison of the present with the past, so far as material interests are concerned. It is notorious, and, practically, none of the agitators deny, that the system of industrial competition, based on private property, has brought about, or has at least co-existed with, the most rapid advance in average wealth and industrial efficiency that the world has seen. Especially can it fairly be claimed that the result of the last few decades of our industrial development has been to increase greatly the creature comforts within the reach of the average human being. And, decidedly, the result has been an amelioration of the lot of the less favored in a relatively greater degree than that of those economically more fortunate. The claim that the system of competition has proved itself an engine for making the rich richer and the poor poorer has the fascination of epigram ; but if its meaning is that the lot of the average, of the masses of humanity in civilized life, is worse to-day, as measured in the means of livelihood, than it was twenty, or fifty, or a hundred years

ago, then it is farcical. The cause of discontent must be sought elsewhere than in any increased difficulty in obtaining the means of subsistence or of comfort. But there is a sense in which the aphorism is true, and in it lies at least a partial explanation of the unrest which our conservative people so greatly deprecate. The existing system has not made, and does not tend to make, the industrious poor poorer as measured absolutely in means of livelihood ; but it does tend to make them relatively poorer, in their own eyes, as measured in terms of comparative economic importance, and, curious as it may seem at first sight, that is what seems to count. It is not the abjectly poor that are oftenest heard protesting ; and when a protest is heard in their behalf it is through spokesmen who are from outside their own class, and who are not delegated to speak for them. They are not a negligible element in the situation, but the unrest which is ground for solicitude does not owe its importance to them. The protest comes from those who do not habitually, or of necessity, suffer physical privation. The qualification "of necessity," is to be noticed. There is a not inconsiderable amount of physical privation suffered by many people in this country, which is not physically necessary. The cause is very often that what might be the means of comfort is diverted to the purpose of maintaining a decent appearance, or even a show of luxury.

Man as we find him to-day has much regard to his good fame—to his standing in the esteem of his fellow-men. This characteristic he always has had, and no doubt always will have. This regard for reputation may take the noble form of a striving after a good name ; but the existing organization of society does not in any way pre-eminently foster that line of development. Regard for one's reputation means, in the average of cases, emulation. It is a striving to be, and more immediately to be thought to be, better than one's neighbor. Now, modern society, the society in which competition without prescription is predominant, is pre-eminently an industrial, economic society, and it is industrial—economic—excellence that most readily attracts the approving regard of that society.

Integrity and personal worth will, of course, count for something, now as always; but in the case of a person of moderate pretensions and opportunities, such as the average of us are, one's reputation for excellence in this direction does not penetrate far enough into the very wide environment to which a person is exposed in modern society to satisfy even a very modest craving for respectability. To sustain one's dignity—and to sustain one's self-respect—under the eyes of people who are not socially one's immediate neighbors, it is necessary to display the token of economic worth, which practically coincides pretty closely with economic success. A person may be well-born and virtuous, but those attributes will not bring respect to the bearer from people who are not aware of his possessing them, and these are ninety-nine out of every one hundred that one meets. Conversely, by the way, knavery and vulgarity in any person are not reprobated by people who know nothing of the person's shortcomings in those respects.

In our fundamentally industrial society a person should be economically successful, if he would enjoy the esteem of his fellowmen. When we say that a man is "worth" so many dollars, the expression does not convey the idea that moral or other personal excellence is to be measured in terms of money, but it does very distinctly convey the idea that the fact of his possessing many dollars is very much to his credit. And, except in cases of extraordinary excellence, efficiency in any direction which is not immediately of industrial importance, and does not redound to a person's economic benefit, is not of great value as a means of respectability. Economic success is in our day the most widely accepted as well as the most readily ascertainable measure of esteem. All this will hold with still greater force of a generation which is born into a world already encrusted with this habit of a mind.

But there is a further, secondary stage in the development of this economic emulation. It is not enough to possess the talisman of industrial success. In order that it may mend one's good fame efficiently, it is necessary to display it. One does not "make much of a showing" in the eyes of the large

majority of the people whom one meets with, except by unremitting demonstration of ability to pay. That is practically the only means which the average of us have of impressing our respectability on the many to whom we are personally unknown, but whose transient good opinion we would so gladly enjoy. So it comes about that the appearance of success is very much to be desired, and is even in many cases preferred to the substance. We all know how nearly indispensable it is to afford whatever expenditure other people with whom we class ourselves can afford, and also that it is desirable to afford a little something more than others.

This element of human nature has much to do with the "standard of living." And it is of a very elastic nature, capable of an indefinite extension. After making proper allowance for individual exceptions and for the action of prudential restraints, it may be said, in a general way, that this emulation in expenditure stands ever ready to absorb any margin of income that remains after ordinary physical wants and comforts have been provided for, and, further, that it presently becomes as hard to give up that part of one's habitual "standard of living" which is due to the struggle for respectability, as it is to give up many physical comforts. In a general way, the need of expenditure in this direction grows as fast as the means of satisfying it, and, in the long run, a large expenditure comes no nearer satisfying the desire than a smaller one.

It comes about through the working of this principle that even the creature comforts, which are in themselves desirable, and, it may even be, requisite to a life on a passably satisfactory plane, acquire a value as a means of respectability quite independent of, and out of proportion to, their simple utility as a means of livelihood. As we are all aware, the chief element of value in many articles of apparel is not their efficiency for protecting the body, but for protecting the wearer's respectability; and that not only in the eyes of one's neighbors but even in one's own eyes. Indeed, it happens not very rarely that a person chooses to go ill-clad in order to be well dressed.

Much more than half the value of what is worn by the American people may confidently be put down to the element of "dress," rather than to that of "clothing." And the chief motive of dress is emulation—what I have ventured to designate as "economic emulation." The like is true, though perhaps in a less degree, of what goes to food and shelter.

This misdirection of effort through the cravings of human vanity is of course not anything new, nor is "economic emulation" a modern fact. The modern system of industry has not invented emulation, nor has even this particular form of emulation originated under that system. But the system of free competition has accentuated this form of emulation, both by exalting the industrial activity of man above the rank which it held under more primitive forms of social organization, and by in great measure cutting off other forms of emulation from the chance of efficiently ministering to the craving for a good fame. Speaking generally and from the standpoint of the average man, the modern industrial organization of society has practically narrowed the scope of emulation to this one line; and at the same time it has made the means of sustenance and comfort so much easier to obtain as very materially to widen the margin of human exertion that can be devoted to purposes of emulation. Further, by increasing the freedom of movement of the individual and widening the environment to which the individual is exposed—increasing the number of persons before whose eyes each one carries on his life, and, *pari passu*, decreasing the chances which such persons have of awarding their esteem on any other basis than that of immediate appearances, it has increased the relative efficiency of the economic means of winning respect through a show of expenditure for personal comforts.

It is not probable that further advance in the same direction will lead to a different result in the immediate future; and it is the *immediate* future we have to deal with. A further advance in the efficiency of our industry, and a further widening of the human environment to which the individual is exposed, should logically render emulation in this direction more intense. There

are, indeed, certain considerations to be set off against this tendency, but they are mostly factors of slow action, and are hardly of sufficient consequence to reverse the general rule. On the whole, other things remaining the same, it must be admitted that, within wide limits, the easier the conditions of physical life for modern civilized man become, and the wider the horizon of each and the extent of the personal contact of each with his fellowmen, and the greater the opportunity of each to compare notes with his fellows, the greater will be the preponderance of economic success as a means of emulation, and the greater the straining after economic respectability. Inasmuch as the aim of emulation is not any absolute degree of comfort or of excellence, no advance in the average well-being of the community can end the struggle or lessen the strain. A general amelioration cannot quiet the unrest whose source is the craving of everybody to compare favorably with his neighbor.

Human nature being what it is, the struggle of each to possess more than his neighbor is inseparable from the institution of private property. And also, human nature being what it is, one who possesses less will, on the average, be jealous of the one who possesses more ; and "more" means not more than the average share, but more than the share of the person who makes the comparison. The criterion of complacency is, largely, the *de facto* possession or enjoyment ; and the present growth of sentiment among the body of the people—who possess less—favors, in a vague way, a readjustment adverse to the interests of those who possess more, and adverse to the possibility of legitimately possessing or enjoying "more ;" that is to say, the growth of sentiment favors a socialistic movement. The outcome of modern industrial development has been, so far as concerns the present purpose, to intensify emulation and the jealousy that goes with emulation, and to focus the emulation and the jealousy on the possession and enjoyment of material goods. The ground of the unrest with which we are concerned is, very largely, jealousy,—envy, if you choose ; and the ground of this particular form of jealousy, that makes for

socialism, is to be found in the institution of private property. With private property, under modern conditions, this jealousy and unrest are unavoidable.

The corner-stone of the modern industrial system is the institution of private property. That institution is also the objective point of all attacks upon the existing system of competitive industry, whether open or covert, whether directed against the system as a whole or against any special feature of it. It is, moreover, the ultimate ground—and, under modern conditions, necessarily so—of the unrest and discontent whose proximate cause is the struggle for economic respectability. The inference seems to be that, human nature being what it is, there can be no peace from this—it must be admitted—ignoble form of emulation, or from the discontent that goes with it, this side of the abolition of private property. Whether a larger measure of peace is in store for us after that event shall have come to pass, is of course not a matter to be counted on, nor is the question immediately to the point.

This economic emulation is of course not the sole motive, nor the most important feature, of modern industrial life; although it is in the foreground, and it pervades the structure of modern society more thoroughly perhaps than any other equally powerful moral factor. It would be rash to predict that socialism will be the inevitable outcome of a continued development of this emulation and the discontent which it fosters, and it is by no means the purpose of this paper to insist on such an inference. The most that can be claimed is that this emulation is one of the causes, if not the chief cause, of the existing unrest and dissatisfaction with things as they are; that this unrest is inseparable from the existing system of industrial organization; and that the growth of popular sentiment under the influence of these conditions is necessarily adverse to the institution of private property, and therefore adverse to the existing industrial system of free competition.

The emulation to which attention has been called in the preceding section of this paper is not only a fact of importance to an understanding of the unrest that is urging us towards an

untried path in social development, but it has also a bearing on the question of the practicability of any scheme for the complete nationalization of industry. Modern industry has developed to such a degree of efficiency as to make the struggle for subsistence alone, under average conditions, relatively easy, as compared with the state of the case a few generations ago. As I have labored to show, the modern competitive system has at the same time given the spirit of emulation such a direction that the attainment of subsistence and comfort no longer fixes, even approximately, the limit of the required aggregate labor on the part of the community. Under modern conditions the struggle for existence has, in a very appreciable degree, been transformed into a struggle to keep up appearances. The ultimate ground of this struggle to keep up appearances by otherwise unnecessary expenditure, is the institution of private property. Under a régime which should allow no inequality of acquisition or of income, this form of emulation, which is due to the possibility of such inequality, would also tend to become obsolete. With the abolition of private property, the characteristic of human nature which now finds its exercise in this form of emulation, should logically find exercise in other, perhaps nobler and socially more serviceable, activities; it is at any rate not easy to imagine it running into any line of action more futile or less worthy of human effort.

Supposing the standard of comfort of the community to remain approximately at its present average, the abolition of the struggle to keep up economic appearances would very considerably lessen the aggregate amount of labor required for the support of the community. How great a saving of labor might be effected is not easy to say. I believe it is within the mark to suppose that the struggle to keep up appearances is chargeable, directly and indirectly, with one-half the aggregate labor, and abstinence from labor—for the standard of respectability requires us to shun labor as well as to enjoy the fruits of it—on part of the American people. This does not mean that the same community, under a system not allowing private property, could make its way with half the labor

we now put forth ; but it means something more or less nearly approaching that. Anyone who has not seen our modern social life from this point of view will find the claim absurdly extravagant, but the startling character of the proposition will wear off with longer and closer attention to this aspect of the facts of everyday life. But the question of the exact amount of waste due to this factor is immaterial. It will not be denied that it is a fact of considerable magnitude, and that is all that the argument requires.

It is accordingly competent for the advocates of the nationalization of industry and property to claim that even if their scheme of organization should prove less effective for production of goods than the present, as measured absolutely in terms of the aggregate output of our industry, yet the community might readily be maintained at the present average standard of comfort. The required aggregate output of the nation's industry would be considerably less than at present, and there would therefore be less necessity for that close and strenuous industrial organization and discipline of the members of society under the new régime, whose evils unfriendly critics are apt to magnify. The chances of practicability for the scheme should logically be considerably increased by this lessening of the necessity for severe application. The less irksome and exacting the new régime, the less chance of a reversion to the earlier system.

Under such a social order, where common labor would no longer be a mark of peculiar economic necessity and consequent low economic rank on part of the laborer, it is even conceivable that labor might practically come to assume that character of nobility in the eyes of society at large, which it now sometimes assumes in the speculations of the well-to-do, in their complacent moods. Much has sometimes been made of this possibility by socialist speculators, but the inference has something of a utopian look, and no one, certainly, is entitled to build institutions for the coming social order on this dubious ground.

What there seems to be ground for claiming is that a society

which has reached our present degree of industrial efficiency would not go into the Socialist or Nationalist state with as many chances of failure as a community whose industrial development is still at the stage at which strenuous labor on the part of nearly all members is barely sufficient to make both ends meet.

In Mr. Spencer's essay, in conformity with the line of argument of his "Principles of Sociology," it is pointed out that, as the result of constantly operative social forces, all social systems, as regards the form of organization, fall into the one or the other of Sir Henry Maine's two classes—the system of status or the system of contract. In accordance with this generalization it is concluded that whenever the modern system of contract or free competition shall be displaced, it will necessarily be replaced by the only other known system—that of status; the type of which is the military organization, or, also, a hierarchy, or a bureaucracy. It is something after the fashion of the industrial organization of ancient Peru that Mr. Spencer pictures as the inevitable sequel of the demise of the existing competitive system. Voluntary coöperation can be replaced only by compulsory coöperation, which is identified with the system of status and defined as the subjection of man to his fellow-man.

Now, at least as a matter of speculation, this is not the only alternative. These two systems, of status, or prescription, and of contract, or competition, have divided the field of social organization between them in some proportion or other in the past. Mr. Spencer has shown that, very generally, where human progress in its advanced stages has worked towards the amelioration of the lot of the average member of society, the movement has been away from the system of status and towards the system of contract. But there is at least one, if not more than one exception to the rule, as concerns the recent past. The latest development of the industrial organization among civilized nations—perhaps in an especial degree in the case of the American people—has not been entirely a continuation of the approach to a régime of free contract. It is also,

*Status, or prescription  
contract, or free competition*

to say the least, very doubtful if the movement has been towards a régime of status, in the sense in which Sir Henry Maine uses the term. This is especially evident in the case of the great industries which we call "natural monopolies;" and it is to be added that the present tendency is for a continually increasing proportion of the industrial activities of the community to fall into the category of "natural monopolies." No revolution has been achieved; the system of competition has not been discarded, but the course of industrial development is not in the direction of an extension of that system at all points; nor does the principle of status always replace that of competition wherever the latter fails.

The classification of methods of social organization under the two heads of status or of contract, is not logically exhaustive. There is nothing in the meaning of the terms employed which will compel us to say that whenever man escapes from the control of his fellow man, under a system of status, he thereby falls into a system of free contract. There is a conceivable escape from the dilemma, and it is this conceivable, though perhaps impracticable, escape from both these systems that the socialist agitator wishes to effect. An acquaintance with the aims and position of the more advanced and consistent advocates of a new departure leaves no doubt but that the principles of contract and of status, both, are in substance familiar to their thoughts—though often in a vague and inadequate form—and that they distinctly repudiate both. This is perhaps less true of those who take the socialist position mainly on ethical grounds.

As bearing on this point it may be remarked that while the industrial system, in the case of all communities with whose history we are acquainted, has always in the past been organized according to a scheme of status or of contract, or of the two combined in some proportion, yet the social organization has not in all cases developed along the same lines, so far as concerns such social functions as are not primarily industrial. Especially is this true of the later stages in the development of those communities whose institutions we are

accustomed to contemplate with the most complacency, *e.g.*, the case of the English-speaking peoples. The whole system of modern constitutional government in its latest developed forms, in theory at least, and, in a measure, in practice, does not fall under the head of either contract or status. It is the analogy of modern constitutional government through an impersonal law and impersonal institutions, that comes nearest doing justice to the vague notions of our socialist propagandists. It is true, some of the most noted among them are fond of the analogy of the military organization, as a striking illustration of one feature of the system they advocate, but that must after all be taken as an *obiter dictum*.

Further, as to the manner of the evolution of existing institutions and their relation to the two systems spoken of. So far as concerns the communities which have figured largely in the civilized world, the political organization has had its origin in a military system of government. So, also, has the industrial organization. But while the development of industry, during its gradual escape from the military system of status, has been, at least until lately, in the direction of a system of free contract, the development of the political organization, so far as it has escaped from the régime of status, has not been in that direction. The system of status is a system of subjection to personal authority,—of prescription and class distinctions, and privileges and immunities; the system of constitutional government, especially as seen at its best among a people of democratic traditions and habits of mind, is a system of subjection to the will of the social organism, as expressed in an impersonal law. This difference between the system of status and the "constitutional system" expresses a large part of the meaning of the boasted free institutions of the English-speaking people. Here, subjection is not to the person of the public functionary, but to the powers vested in him. This has, of course, something of the ring of latter-day popular rhetoric, but it is after all felt to be true, not only speculatively, but in some measure also in practice.

The right of eminent domain and the power to tax, as interpreted under modern constitutional forms, indicate something of the direction of development of the political functions of society at a point where they touch the province of the industrial system. It is along the line indicated by these and kindred facts that the socialists are advancing ; and it is along this line that the later developments made necessary by the exigencies of industry under modern conditions are also moving. The aim of the propagandists is to sink the industrial community in the political community ; or perhaps better, to identify the two organizations ; but always with insistence on the necessity of making the political organization, in some further developed form, the ruling and only one in the outcome. Distinctly, the system of contract is to be done away with ; and equally distinctly, no system of status is to take its place.

All this is pretty vague, and of a negative character, but it would quickly pass the limits of legitimate inference from the accepted doctrines of the socialists if it should attempt to be anything more. It does not have much to say as to the practicability of any socialist scheme. As a matter of speculation, there seems to be an escape from the dilemma insisted on by Mr. Spencer. We may conceivably have nationalism without status and without contract. In theory, both principles are entirely obnoxious to that system. The practical question, as to whether modern society affords the materials out of which an industrial structure can be erected on a system different from either of these, is a problem of constructive social engineering which calls for a consideration of details far too comprehensive to be entered on here. Still, in view of the past course of development of character and institutions on the part of the people to which we belong, it is perhaps not extravagant to claim that no form of organization which should necessarily eventuate in a thorough-going system of status could endure among us. The inference from this proposition may be, either that a near approach to nationalization of industry would involve a régime of status, a bureaucracy, which would be unendurable, and which would there-

fore drive us back to the present system before it had been entirely abandoned ; or that the nationalization would be achieved with such a measure of success, in conformity with the requirements of our type of character, as would make it preferable to what we had left behind. In either case the ground for alarm does not seem so serious as is sometimes imagined.

A reversion to the system of free competition, after it had been in large part discarded, would no doubt be a matter of great practical difficulty, and the experiment which should demonstrate the necessity of such a step might involve great waste and suffering, and might seriously retard the advance of the race toward something better than our present condition ; but neither a permanent deterioration of human society, nor a huge catastrophe, is to be confidently counted on as the outcome of the movement toward nationalization, even if it should prove necessary for society to retrace its steps.

It is conceivable that the application of what may be called the "constitutional method" to the organization of industry—for that is essentially what the advocates of Nationalization demand—would result in a course of development analogous to what has taken place in the case of the political organization under modern constitutional forms. Modern constitutional government—the system of modern free institutions—is by no means an unqualified success, in the sense of securing to each the rights and immunities which in theory are guaranteed to him.

Our modern republics have hardly given us a foretaste of that political millennium whereof they proclaim the fruition. The average human nature is as yet by no means entirely fit for self-government according to the "constitutional method." Shortcomings are visible at every turn. These shortcomings are grave enough to furnish serious arguments against the practicability of our free institutions. On the continent of Europe the belief seems to be at present in the ascendant that man must yet, for a long time, remain under the tutelage of absolutism before he shall be fit to organize himself into an

autonomous political body. The belief is not altogether irrational. Just how great must be the advance of society and just what must be the character of the advance, preliminary to its advantageously assuming the autonomous—republican—form of political organization, must be admitted to be an open question. Whether we, or any people, have yet reached the required stage of the advance is also questioned by many. But the partial success which has attended the movement in this direction, among the English-speaking people for example, goes very far towards proving that the point in the development of human character at which the constitutional method may be advantageously adopted in the political field, lies far this side the point at which human nature shall have become completely adapted for that method. That is to say, it does not seem necessary, as regards the functions of society which we are accustomed to call political, to be entirely ready for nationalization before entering upon it. How far the analogy of this will hold when applied to the industrial organization of society is difficult to say, but some significance the analogy must be admitted to possess.

Certainly, the fact that constitutional government—the nationalization of political functions—seems to have been a move in the right direction is not to be taken as proof of the advisability of forthwith nationalizing the industrial functions. At the same time this fact does afford ground for the claim that a movement in this direction may prove itself in some degree advantageous, even if it takes place at a stage in the development of human nature at which mankind is still far from being entirely fit for the duties which the new system shall impose. The question, therefore, is not whether we have reached the perfection of character which would be necessary in order to a perfect working of the scheme of nationalization of industry, but whether we have reached such a degree of development as would make an imperfect working of the scheme possible.

T. B. VEBLEN.

*Ithaca.*

## PERSONAL NOTES.

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### AMERICA.

**Brown University.**—Henry Brayton Gardner, who was last year appointed Associate Professor of Political Economy in Brown University, was born in Providence, R. I., in 1863. He entered Brown University and in 1884 received the degree of A. B. From that time until the Spring of 1888 he studied in the department of History and Political Science in Johns Hopkins University, holding a fellowship in 1887. In 1888 Mr. Gardner was appointed Instructor in Political Economy at Brown and in 1890 received the degree of Ph. D. from Johns Hopkins University. Professor Gardner has published among other articles a paper on "Statistics of Municipal Finance" in the publications of the American Statistical Association. Vol. I. p. 254 ff.

**College of the City of New York.**—Prof. Christopher G. Tiedeman, who has for the past ten years been connected with the University of Missouri, has accepted the Professorship of Real Property in the University of New York. In conjunction with his professorship he participates with his colleagues in providing post-graduate courses of lectures in advanced Constitutional Law, Municipal Corporations and the Interpretation and Construction of written law and legal instruments.

Prof. Tiedeman was born in Charleston, S. C., July 16, 1857, and was graduated from the College of Charleston in 1876. He then went abroad (1877-8) attending lectures in Roman Law and Political Science in the Universities of Göttingen and Leipsic, by Profs. v. Ihering, Winscheid, Friedberg and Roscher. In 1879 he was graduated from Columbia College Law School. After practicing law in Charleston for a year he re-

moved in 1880 to St. Louis, Mo., where he continued his law practice until, in the fall of 1881, he accepted a call to the Chair of Law in the University of Missouri, at Columbia, Mo.

Besides articles in the *American Law Review*, the *Central Law Journal*, the *Albany Law Journal* and the *American Law Register*, a number of which have been re-published in other law journals, both in this country and Great Britain, Prof. Tiedeman has published the following works: in 1883, "The Law of Real Property" which is now used as a text-book in a large proportion of the law schools of the country, including those of Boston University, Yale, Cornell, Michigan, the University of New York, and Washington and Lee; further:

"The Limitations of Police Power in the United States." 1886.

"The Law of Commercial Paper." 1889.

"The Unwritten Constitution of the United States." 1890.

"The Law of Sales." 1891.

**Cornell University.**—Walter F. Willcox, the author of a recently published work on the "Divorce Problem," has been appointed Instructor in Philosophy in Cornell University. He was born at Reading, Mass., in 1861. From Phillips Academy, Andover, he entered Amherst College in 1880 where he graduated in 1884. Since that date his course may be summarized as follows: Boston University Law School, 1884-5; Tutor in Latin, Amherst College during the Spring term, 1885; Columbia Law School and Columbia School of Political Science, 1885-87; Seligman Fellow in Political Science, 1886-7; member of the New York Bar, 1887; L. L. B., Columbia, 1887; Instructor in Philosophy and Common Law in Amherst College, 1887-8; A. M., Amherst 1888; graduate student in Philosophy and Theology, Yale University, 1888-9. After spending a year at Berlin (1889-90) Mr. Wilcox received the degree of Doctor of Philosophy from Columbia College in 1891.

**University of Indiana.**—At the University of Indiana, Dr. Edward A. Ross has been chosen to succeed Professor J. W. Jenks\* as Professor of Economics and Social Science. He was

\* Recently called to Cornell University. For biographical notes see the *ANNALS* for July, 1891, p. 105.

born at Verden, Ill., in 1866. After his graduation at Coe College, Cedar Rapids, Iowa, in 1886, he passed two years in teaching at the Fort Dodge Collegiate Institute. In 1888 he went abroad and devoted sixteen months in Berlin and Paris to the study of Philosophy and History. On returning to the United States in 1890, he entered the department of History and Politics at Johns Hopkins University and in 1891 received the degree of Ph. D. Dr. Ross's doctor's dissertation on "Sinking Funds," as well as several other scientific papers, will be published soon.

**Kansas State University.**—Frank Heywood Hodder, A. M., who succeeds Professor James H. Canfield \* as Associate Professor of American History and Civics in the Kansas State University, was born in Aurora, Ills., in the year 1860. He graduated from the University of Michigan in 1883, taking his Master's degree on examination at the same time. During his college course his attention was chiefly directed to the study of History and Political Economy under the instruction of Professors C. K. and H. C. Adams. After teaching a year in his native place Mr. Hodder received, in 1885, an appointment at Cornell University where as Instructor and, later as Assistant Professor, he taught History and Political Economy. Last year he spent abroad, chiefly in Göttingen, with Professor Cohn and at Freiburg i. B. with Professor v. Philipovich.

**Massachusetts Institute of Technology.**—Charles F. A. Currier, of East Kingston, N. H., has recently been appointed Instructor in Political Science in the Institute of Technology. Mr. Currier entered Harvard University from Phillips Exeter, in 1883, and received his degree of A. B. in 1887, and that of A. M. in 1888. After two years of post-graduate study at Harvard, chiefly in Constitutional History, Mr. Currier went abroad, devoting a year to study at Berlin under Professors Gneist, Brunner and others, and a year in Paris at the École

\* Recently appointed Chancellor of the University of Nebraska. For biographical notes see the ANNALS for Sept. 1891.

*Libre des Sciences Politiques.* His subjects of instruction in the Institute of Technology are constitutional history, comparative politics and international law.

**Mills College.**—Miss Marietta Kies has received an appointment as instructor in Philosophy and Political Economy in Mills College, Alameda Co., Cal. Miss Kies was born at West Killingly, Conn., December 31, 1853. She graduated from Mt. Holyoke Seminary in June, 1881, and occupied successively the positions of teacher at Mt. Holyoke, 1881-82; Associate Principal of High School, Putnam, Conn., 1882-83; Principal of Preparatory Department, Colorado College, Colorado Springs, Colo., 1883-85. In the fall of 1885 Miss Kies returned to Mt. Holyoke as teacher of Mental and Moral Philosophy and began systematic study with Dr. W. T. Harris. Two years later the subject of Political Economy was added to her department.

In October, 1888, at the University of Michigan, Miss Kies resumed her studies in Philosophy and Political Economy. In 1890 she took the examination for the degree of Ph. M., presenting as a thesis, "Introduction to the Study of Philosophy; a Compilation of the Writings of Dr. W. T. Harris with Commentary and Illustration." For the degree of Ph. D., received at the University of Michigan, in June, 1891, Miss Kies presented as a thesis, "The Ethical Principle: and its Application in the State Relations." The thesis will shortly be published by the Register Publishing Co., Ann Arbor, Mich.

**Oberlin College.**—John R. Commons, who has recently been appointed Associate Professor of Political Economy in Oberlin College, was born in Darke Co., Ohio, in 1862. He received the degree of A. B. from Oberlin College in 1888 and a year later that of A. M. from the same institution. The year 1888-90 he spent at Johns Hopkins University. After a year as tutor in Political Economy at Wesleyan University, he received the appointment at Oberlin.

Professor Commons is associated with Dr. G. W. Knight of

the Ohio State University in a publication of a "History of Higher Education in Ohio" which is now being issued by the National Bureau of Education.

**University of Pennsylvania.**—Wharton School of Finance and Economy.—Some important additions have been made to the corps of instructors in the Wharton School for the coming year. Roland P. Falkner recently appointed Associate Professor of Statistics<sup>1</sup> has been granted leave of absence to assist in the statistical investigation of wages and prices, now being conducted by the Finance Committee of the United States Senate.

The following appointments have been made: James Harvey Robinson, Ph. D., Lecturer in European History; A. B. Woodford, Ph. D., Instructor in Political Science<sup>2</sup>; Frederick W. Moore, Ph. D., Instructor in Sociology; Sidney Sherwood, Ph. D., Instructor in Finance; Mr. L. K. Stein, Assistant, and Albert S. Bolles, Ph. D., Lecturer on Mercantile Law and Banking.

Dr. Robinson was born in Bloomington, Illinois, June 29, 1863. He entered Harvard in 1884, and was graduated there with the Class of 1887. After a further year of post-graduate study in History he went to Germany, spending a semester at Strasburg and two at Freiburg im Breisgau, studying with Profs. Hermann v. Holst, Philippovich and Resin. In April, 1890, he received the degree of Doctor of Philosophy. The following summer he spent in northern Germany, chiefly at Berlin, completing a monograph on the German Federal Council. The succeeding winter Dr. Robinson continued his studies in European History in the National Library at Paris, occupying himself principally with the Revolutionary and Napoleonic periods.

Dr. Robinson has published a paper on the Original Features of the Constitution, in the *ANNALS*, October, 1890. This had previously received the Toppan Prize at Harvard, in 1888.

1. See *ANNALS* for July, 1891.

2. For personal notes see the *ANNALS*, July, 1890.

He has also published a monograph on the German *Bundesrath* which appears in the series of publications of the University of Pennsylvania on Political Economy and Public Law.

Frederick W. Moore was born in East Lyme, New London County, Conn., October 18, 1863. At the age of nineteen he entered the Department of Arts, Yale University, and graduated with the Class of 1886. The three years next following he spent as graduate student in the same University, working along the line of Political and Social Science and American History, coming especially under the influence of Professors Sumner, Hadley and Brewer. In 1890 he received the degree of Doctor of Philosophy upon submission of a thesis treating of the early reconstruction period in the history of Louisiana, 1862-1867. The years 1889-90 were spent abroad, in France and Germany, especially in Berlin, where he attended for several consecutive terms the lectures of Professor Dr. Schmoller. Upon his return home, in the spring of 1891, Mr. Moore was offered the position of Lecturer in Political Science at Yale, which was relinquished to accept a position in the Wharton School.

Dr. Sherwood was born in 1860 at Ballston, Saratoga County, N. Y. He entered Princeton College in 1875, and was graduated there in 1879. For a year he taught Latin and Greek at Newton Collegiate Institute, Sussex County, N. J. In 1880 he went abroad, spending two years in travel. In 1883 he took up the study of law, and spent the year 1884-5 at the Columbia Law School. Although his law studies were undertaken for the sake of general culture, Dr. Sherwood took the Court examinations for admission to the bar, was licensed to practice in New York State, and entered upon the practice of the law in connection with Abner C. Thomas, Esq., of New York City. After nearly three years of practice, he decided definitely upon an academic career and in 1888 entered the Department of History and Politics in the Johns Hopkins University, where he received his degree of Doctor of Philosophy in 1891.

Mr. L. K. Stein was born in the City of Hanover, Germany,

in 1859. He studied Philology and Philosophy at the University of Berlin, from 1878 to 1882. In the United States he began the study of Political Science at the Johns Hopkins University, where he remained from 1885 to 1888. The next two years he devoted mainly to teaching. During the year 1890-91 he held a fellowship in the School of Political Science of Columbia College, and during the last summer he conducted a class in Economics at the Summer School of Applied Ethics in Plymouth, Mass.

**Trinity College, N. C.**—Stephen Beauregard Weeks has been appointed Professor of History and Politics in the Department of History, Political and Social Science in Trinity College, N. C. Dr. Weeks was born in 1865 in Pasquotank County, N. C. He entered the University of North Carolina in 1882, and received successively from that institution the degrees of A. B. (1886), A. M. (1887) and Ph. D. (1887), the two years of post-graduate work being devoted to the study of Comparative Literature and Philology and to private work in History. In 1887-8 Dr. Weeks was instructor in English in the University of North Carolina. In October of 1888 he entered Johns Hopkins University as a graduate student, and spent three years there devoting himself to the study of History, English and Political Economy, receiving the degree of Ph. D. in 1891. Among the papers which Prof. Weeks has published may be mentioned :

"Duels in North Carolina and among North Carolinians."

"Blackbeard, the Corsair of Carolina."

"Ralph Lane and John White, Governors of Roanoke."

"Raleigh's Settlements on Roanoke Island."

"The Slave Insurrection in Virginia in 1831."

He is now preparing a monograph on the Religious Development in the Province of North Carolina, and a bibliography of the Historical Literature of North Carolina.

**Wesleyan University.**—W. M. Daniels, A. M., has been appointed Instructor in Economics and Social Science at Wesleyan University. Mr. Daniels was born at Dayton, Ohio,

in 1867. He was graduated from Princeton in 1888 and taught the two years following in the Princeton Preparatory School. The last year he has spent in Leipzig pursuing his studies in History and Political Science.

## GERMANY.

**Würzburg.**—Dr. Max von Heckel has recently become Privatdozent for Economics at the University of Würzburg. Dr. von Heckel pursued his University studies at Munich and Berlin, at the latter especially under the direction of Professor Wagner. In 1889 he took the degree of Doctor of Political Science at Munich, and on July 15, of the present year, he entered the Academic career at Würzburg. Besides book notices and statistical tables in Conrad's "*Jahrbücher*," and Schanz's "*Finanzarchiv*," Dr. von Heckel has published the following :—

"Die Berücksichtigung der Schulden und Schuldzinsen in der direkten Besteuerung." Munich, 1889.

"Die Schuldzinsen und die Einkommensteuer." Leipzig, 1890.

"Zur Entwicklung und Lage der Staatswissenschaftlichen Litteratur in Spanien." Conrad's "*Jahrbücher*" 1890.

"Zur Lehre von den Verkehrssteuern." "*Finanzarchiv*" VII, 2.

"Die Reform der Gebäudegrundsteuer in Frankreich." "*Finanzarchiv*," 1891.

## HOLLAND.

**Amsterdam.**—At the University of Amsterdam, Professor Cort van den Linden has been elected to succeed the late Professor Beaujon. Professor Cort van den Linden was born at the Hague, in 1846, studied law at the University of Leyden 1864-69, and was called to the bar in 1869. Subsequently he filled the position of second Secretary to the second chamber of the House of Representatives, and was called in 1881 to the Chair of International Law, Political Economy and Statistics at the University of Groningen. Professor Cort van den Linden is the only representative in the Dutch Universities of the Historical School in Political Economy. He is Vice-President of State Commission appointed to inquire into the condition of

agriculture in the Netherlands, and has been appointed to draw up the report of the Commission. His principal publication is: "*Leerboek der Financien. De theorie der belastingen,*" s'Gravenhage, 1887.

## ITALY.

**Padua.**—Professor Achille Loria, formerly of the University of Siena, has been called to Padua as Professor of Political Economy, and enters on his duties this fall. He was born in Mantua, March 2, 1857, and studied Jurisprudence at Bologna. After taking in 1877 the degree of Doctor of Laws, he studied Political Economy at Pavia with Professor Cossa, and Statistics at Rome with Professor Messadaglia. Later he was sent abroad by the Italian government to pursue advanced economics at Berlin with Wagner, Engel and Meitzen, and especially to study the scientific material preserved in the British Museum. In 1881, he was appointed extraordinary Professor at Siena, and three years later ordinary Professor. In addition to his important contributions to scientific periodicals, Professor Loria has published the following:—

"*La rendita fondiaria e le sue elizione naturale.*" Milan, 1879.

"*La legge di popolazione ed il sistema sociale.*" Siena, 1882.

"*La teoria del valore negli economisti italiani.*" Bologna, 1882.

"*La teoria economica della costituzione politica.*" Turin, 1886.

"*Analisi della proprietà capitalisti.*" Turin, 1889. 2 Vols. (This work was accorded the royal prize by the Accademia dei Lincei.)

"*Studii sul valore delle moneta.*" Rome, 1891.

## BOOK REVIEWS.

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### SOME BOOKS ON CANADA.

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THE NEW EMPIRE. By O. A. HOWLAND, of Osgoode Hall, Barrister-at-Law. Toronto: Hart & Co., 1891.

This is a thoughtful and suggestive book that will repay reading. Although Mr. Howland has particularly in mind the fate of Canada, his analysis and his proposals involve the English speaking peoples of the world. He has in view the consolidation of a great Federal Empire composed of Great Britain, Ireland, Canada, Australasia and all the British Colonies and this to be brought into a very close alliance with the United States.

His scheme when fully developed and understood is not at all so Utopian as it must appear from such a bald statement of it as can be made in a short review. He does not propose such an amalgamation of legislative functions as the Imperial Federationists advocate. Their plan he considers impracticable. His union would include much less of the political life of the individual States than theirs, and would also be far more flexible. It would be what might be called a federation for mutually advantageous forbearance. The utmost actual restriction he would put upon the individuality of any State of the Federation would be that it should not be permitted to enact such laws or perform such acts as would be detrimental to any other part of the Empire. It would be expected that each member of the confederation would contribute to the defence of the Empire, but this would be a matter for the Parliament of each individual State, *e. g.*, Australia or Canada, to deal with, and to vote such supplies as it deemed expedient. The Empire as a whole would have neither power nor machin-

ery to enact laws. The Sovereign would have a Constitutional power to refuse assent to the laws passed by the Legislatures of the various States of the Confederation and the Legislatures would have the same means of coercing the Sovereign as is now possessed by the House of Commons in Great Britain. There would also be a Supreme Court which could pass upon the constitutionality of the laws enacted in the various States of the Empire. The Judges he proposes should be chosen from the Judicial Committee of the Privy Council. They should go on circuit and hold semi-annual sittings in the capitals of the various States. The State in which the court sat, at any time, should nominate one native Judge, who would be a member of the court for all cases arising in that State. In this way he thinks something of unity and consistency would be given to the laws of the Empire. Only such unity as mutual advantage would lead to is desirable in the eyes of the author, and mutual advantage would, he thinks, lead to such trade relations and plans of defence and offence as would give the Empire solidity and cohesion.

This is "The New Empire." With the United States it is to be brought into close alliance and a friendly disposition is to be maintained by the establishment of an international court, to be composed of judges chosen from the Supreme Court of the United States, and from the judicial committee of the Privy Council. This court is to be a tribunal of reference for all international questions; and each country, of course, reserves its right to appeal to arms, if in the eyes of its people any decision of the court warrants such a course. Such a court, Mr. Howland predicts, would do away with the greater part of the soreness that has too frequently existed between the two kindred peoples.

An arrangement of this nature is indeed a political possibility. As the author labors to show that it would be only the natural outcome of the development of the British Constitution, he seems to bring it almost within the range of political probability.

Mr. Howland begins to trace this development from the

eighteenth century. His first point is made by showing that there really is a "New Empire" as distinguished from the "Old Empire" of the period when the United States declared their independence. He is not the first to point out that there has been a revolution in the English Constitution since the reign of George III. ; but it is well to keep the fact before the English-speaking world, for it is one that is scarcely recognized by any but the few who give the subject very special attention. The great changes in the Imperial constitution on its *colonial* side have not, however, been clearly brought out by any preceding writer. He shows that on this side of the constitution there has been even more marked development toward democracy than in the manner of managing the domestic affairs of the realm. At the time the Thirteen Colonies seceded, the central Parliament, sitting at Westminster, claimed and exercised the right of legislating for the entire Empire. At the present time the great colonies of the British Empire are practically unfettered in their legislation and executive action by the central government. The British Parliament never thinks of passing an act affecting the domestic policy of a self-governing colony. The rebellion of the Thirteen Colonies was the first step towards the change. Shortly after their independence we have, in Canada, the constitutional act of 1791, which Mr. Howland deems entirely different in its underlying political ideas from any of the older charters or constitutions. There was, at this time, an open renunciation of the right, on the part of the British Government, to enact laws for the good governance of Canada. There was established in Canada by this act a Constitution similar in principle to the British Constitution of that period. In short, just what the Americans had asked for before the secession, and indeed what they got by their independence, was granted to the Canadians by the constitutional act. From this point the development has gone on without let or hindrance until Mr. Howland is now able to argue with a good show of reason, that the British Constitution is really a federal constitution ; that the only relationship between Great

Britain and Canada is that established by their both being subject to the same Sovereign; that the proper official designation of Her Majesty now is Queen of Great Britain, Ireland, Canada, Australia, etc., and Empress of India; indeed, that the colonies are now in reality States of a great federal Empire, and that all that is needed to establish his "New Empire" is official recognition by the Parliaments of the various States.

The plan of government which he sketches is, perhaps, the least valuable part of his book. But in his endeavor to establish its feasibility by showing that the present constitution of the Empire is in reality already very like what he proposes and that it has been continually growing towards his ideal for more than a century, he is led to analyze the Canadian and the British Constitutions at different periods; and it is the acumen with which he conducts this examination that makes his book valuable. It is quite probable that he will not find many ready to accept his prescription; but all must agree, to a very large extent, with his diagnosis. He certainly sees far into the weaknesses of the democratic institutions of the present age and fortunately he has lost that deluding habit of calling everything liberty and honesty that is enacted by the vote of a majority. He argues with truth that electoral issues must be simplified before any just conclusion can be formed from the result of a general election as to what the majority of the nation really desire. In most parliamentary elections the voter is altogether confused by the number of questions which he is called upon to decide by casting a single vote. The voter probably does not agree with all the positions taken up by either party. The consequence generally is that he does not try to arrive at a decision as to what will be for the public good, but votes for his father's party. It is only occasionally that any single question is allowed by the party managers to assume a really preponderating influence on the election. It is with a view to simplifying electoral issues by removing from this field all questions of international import that he proposes to establish the International Court. In a country where there are French, Irish, German and English populations, there may be

pending at nearly every election some question of an international nature which, when distorted by party leaders, would influence a whole class of electors and perhaps offend a neighboring State, and which would still not be at all relevant to the matters properly at issue in the election. He may, indeed, does overestimate the baneful influence of party ; but he is certainly right in saying that government in the United States and Canada is now becoming government for the party instead of for the country.

The book also deals very minutely with the settlement of the western boundary of the United States by the Treaty of 1783. The spirit of that treaty he deems to have never been fully conformed to by the Americans. He is of the opinion that the great West was deliberately handed over to the United States by Great Britain upon the understanding that there should be cordial trade relations between the two countries ; and the United States for the greater part of the time since have kept up a hostile tariff. It seems, indeed, certain, since the private correspondence in regard to that treaty has become public, that, if England had been willing to divide this vast territory between herself and Spain she might have done so. France, who was figuring as the ally of the Americans, proposed a division to the British Government whereby the United States would have received but an inconsiderable part of the Great West ; and the Americans could not have rejected the arrangement at that time in the teeth of the three European governments. If this version of the events of 1783 is correct it may fairly be argued that the subsequent policy of the United States has hardly been generous.

Mr. Howland does not, perhaps, very accurately estimate the present situation ; he may not realize the magnitude of the changes he proposes ; but he is a Canadian of the type we need—he is hopeful. He is too acute an observer to be carried away with the enthusiasm known by various names, but all of which mean that Canada cannot remain in her present political status. This is the keynote in the lament, both of Imperial Federationists and Annexationists as well as of those who look

forward to independence as a speedy boon. Canada has no need for, nor is she likely to witness any such sudden change. Our normal development is sufficient for us, whether it take us in the direction of the "New Empire," or whether it achieve the less pretentious, but more necessary work of so reforming our Constitution, that in the Dominion, as a whole, there shall not be a continual suspicion—if not a certainty—that some of the provinces are being practically bribed out of the Dominion Treasury. With men in whom the people have confidence, and she does not despair of securing such men to manage her affairs, the Dominion is doing so well that she proposes to bear the ills she has rather than to fly to others she knows not of. So completely are Jeremiades becoming the fashion with writers on Canadian affairs that Mr. Howland is to be complimented for his courage in daring to appear in print, as one who has faith in Canada and her institutions.

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CONSTITUTIONAL DOCUMENTS OF CANADA. By WM. HOUSTON, M. A.  
Pp. 338. Toronto: Carswell & Co., 1891.

Of Mr. Houston's work proper there is but little to be said. He has collected a number of documents, without a close study of which no one can hope to form an accurate conception of certain features of the Canadian Constitution. And although these documents were well known to every careful student of that Constitution before his publication appeared, yet he has rendered an important service to a large class of readers by making available within this narrow compass, what up to the present, has been scattered through many volumes. He has made it possible for even the casual reader to become acquainted with the foundation stones of the Constitution of Canada, in so far as they can be found in written instruments. For it must always be remembered that written Constitutions are but evidence for Constitutional history and not the history itself.

The book is in many respects modeled after Mr. Poore's now well known collection of Charters and Constitutions of

the States of the Union. In it will be found nearly all the instruments by which the British Government has given, altered or withdrawn its authority for the administration of civil government in any of the Provinces or Districts now constituting the Dominion. Each of these instruments contains more or less minute directions for the administration of civil affairs. Such directions, issued, as they were, at various dates throughout nearly a century and a half, give an official statement of the views of government entertained at the date of each document; and as a series they manifest the continual growth of constitutional ideas in the British Empire. In this way they reflect important light on English Constitutional history as well as on Canadian. In addition to these, the volume contains the treaties whereby the territories now forming the Canadian Provinces were ceded to Britain, as well as the commercial and boundary treaties with the United States. Mr. Houston has, moreover, written quite elaborate notes on many passages, giving explanations and references to further sources of information. This part of the work gives evidence of wide reading and painstaking investigation; and the notes are a decided assistance to the reader who has access to a large library.

The book will be especially welcomed by students desiring a legal rather than a political insight into the various positions occupied by the British North American Provinces during the last century and a half. The selection of documents is avowedly arbitrary; and for that reason it would be ungenerous to suggest that some of those that have been chosen are of little constitutional significance, or on the other hand that others of decided value have been omitted. The compiler in his preface says that he has sought to include only documents of "international or imperial origin" which are of importance to the student of Constitutional history. Under this description one is disappointed at not finding such a document as the Charter of the Hudson's Bay Company. The trading company has played an important part in the establishment of civil government in America, and it would therefore seem desirable

to have included at least one of their charters in such a collection of documents as the present.

One is also disappointed at finding the right of French Canadians to recognition in our constitutional history entirely ignored in a compilation which, otherwise, would be tolerably complete. Here it would be useless to suggest individual documents; there are many of primary importance. The whole question is whether there should be any documents at all relating to the history of French Canada in such a collection; whether the colonization and early history of New France has left any important impressions upon Canadian constitutional history. Mr. Houston is clearly of opinion that French influences have not materially affected the later development. He says, in his preface, by way of accounting for the absence of documents relating to the French period that "the true line of development of the Canadian Constitution takes us back not to the French régime in Canada, but to the Colonial Government of what is now the United States."

This seems to be going too far. It is indeed true that French models were not followed in the construction of the articles of the Canadian Confederation. It is also true that the government machinery in each of the Provinces has always been, so far as mere form is concerned, very similar to that which was common among the colonies which have since become the United States, but of which the Canadian Provinces are rather contemporaries than descendants,—a distinction Mr. Houston fails to appreciate. Mere form, however, counts for little in matters political. The history of the forms of government that have followed one another in Canada could be quickly written and would be of little use when it was written. What it is above all desirable to study is the relation of a particular form of government to a particular people. To understand this is far more important than to know many mere forms of government. What would be a good form for a people of British extraction living on this continent in the eighteenth century might be a bad form for a people of French ancestry living here during the same period.

The nature of the people and the state of their political education must be taken into account in estimating the fitness of a form of government for them; and this cannot be done in the Dominion by ignoring the early history of the French in Canada. Two-fifths of our present population are of French origin. One of our provincial governments enacts French laws, and in that Province the civil law and not the common law is the legislator's starting point. The most dangerous problem before Canadian statesmen is the race problem, and Fabian tactics are the only safe process for its solution. The statesman's true task is to induce both nationalities to let the race question alone. In such a state of affairs there can be no information more useful to every Canadian, be he French or be he English, than such as will give him a thorough understanding of what his fellow countryman is politically, and what he has been politically. Confederation is not the whole of the Canadian constitution. There is more political life in each Province as such, than there is in the Dominion as a Dominion. The Provincial entities are far more powerful and far more important in the eyes of the people than is the Dominion. Our constitutional history is the history of Provinces both before and after Confederation, rather than the history of a Dominion of Canada. Why neglect the study of one of these Provinces and that an important one? All Canadians must lament that we are not more thoroughly united; but surely the quickest way to a more thorough union is a more adequate knowledge of each other.

Mr. Houston gives up his introduction to an unqualified advocacy of the "seminary method." He attempts to establish the proposition "that *ex cathedra* lectures are an antiquated and an ineffective method of dealing with any subject in the class-room, and that they are particularly out of place in the academic treatment of history."

No one questions the usefulness of the "seminary method" of teaching. For many parts of the subject of Canadian Constitutional history it is invaluable; but it is only a helpmate to older methods. There is plenty of room for both the *ex*

*cathedra* lecture and the seminary. It is unfortunate that Mr. Houston should think it necessary to discredit the practice of delivering lectures in order to advocate his own favorite method of teaching. He has done useful work in compiling this book ; but decrying a particular system of teaching, with which he has no sympathy, has no legitimate connection with the collection of constitutional documents. It was well enough to suggest the manner in which he thought the book might be most advantageously used, but it was not necessary to condemn other methods, and the omission of these unnecessary remarks would have secured for the book an even more hearty welcome than has been accorded it.

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CANADA AND THE CANADIAN QUESTION. By GOLDWIN SMITH, D.C.L.  
Pp. 325. Macmillan & Co., 1891.

If all that has been published recently upon the condition of Canada were collected into a sacred volume, to be made the political guide of benighted Canadians, Mr. Goldwin Smith's contribution would be unanimously accepted as the Book of Lamentations. He is the Jeremiah among those sincerely interested in Canadian affairs. For his profound and varied attainments, for his acknowledged literary ability there is the utmost respect and admiration throughout the Dominion, but that constant dissatisfaction which his writings exhibit, that continual tendency to belittle, to put the worst possible face on everything Canadian, is extremely irritating to the greater part of the reading public of Canada. It very materially lessens his influence, which might otherwise be a power in the country.

His last book is no worse in this respect than much else that he has written. He advocates commercial union with the United States, a measure which most all thinking Canadians believe would be for their country's good. But as usual with what he advocates, most Canadians do not believe that it can be attained at present. It is the belief that the United States would not entertain the proposition, rather than any lack of faith in "commercial union" that keeps the great majority of Canadians from expressing themselves more heartily in its favor.

It is not, however, his open advocacy of commercial union nor his unavowed advocacy of political union that is distasteful. Every one is ready to respect his convictions upon these points. But the manner in which he advocates his views is very annoying, if not humiliating to many Canadians. We do not object to being convinced that annexation is for our benefit, but we do object to being held up to the world as a people that must soon be starved into annexation. We are not *in extremis*.

His professed object in this book is to discuss "the Canadian Question." Before doing this, however, he affects to put the reader in possession of all the facts of Canadian history pertinent to the argument. It is in this part of his book that he makes Canada and Canadians cut so indifferent a figure. It might be difficult successfully to controvert his more important historical conclusions; but there is a lack of anything like sympathy with the struggles and difficulties in Canadian politics, which may not always have found their best solutions, but which nevertheless deserve honorable rather than dishonorable mention. He seems to be unconsciously controlled by a notion that Canada is a poor little place that has not sufficient intelligence to accept his advice and thereby become happy and great. In accordance with this notion he seems to see only that part of Canadian history which feeds his misconception; and even this he relates with that disparaging, half-hidden irony of which he is such a master. This is the impression his book makes upon many of his fellow citizens. That he intends to be strictly impartial and to be of the utmost service to the country no one doubts. He is conscientious to a fault, but, nevertheless, his book seems to many calculated to convey an unjust impression of Canada to those who do not know her as she is.

He represents the people of Quebec as an utterly unenterprising and shiftless race, without energy and without ambition; as a people who are entirely inimical to all that is British and all that is Canadian, unless it be French Canadian. To establish this view, he quotes some words of the Prime Minister of Quebec, uttered in a moment of enthusiasm at a banquet, which was given by a French national club to do him honor

upon his achieving victory at the polls. He complains bitterly that the hall on such an occasion should be profusely decorated with French flags while only one Canadian flag was to be seen. He thinks it very significant that the Premier should declare that the victory they celebrated was a national (in the sense of French) victory. Another portentous sign is found in the fact that Sir George Cartier, a prominent French-Canadian politician, said on one occasion that the French-Canadians were much exercised over the defeat of France in the Franco-Prussian war.\*

That the inhabitants of Quebec have always been, are now, and are likely to continue to be French Catholics, he might have saved himself the trouble of proving, and it has long been cheap knowledge that they were not so "progressive" as their Anglo-Saxon neighbors. These, however, are not facts that should drive sensible Canadians to distraction. Under the present arrangement it makes but little difference to the people in other parts of the Dominion whether the inhabitants of Quebec are French or English, Catholic or Protestant. Ontario has no right to demand that Quebec become English or that she become Protestant. Her right is to demand that Quebec should pay her honest share of the burdens of Federal government and receive only her fair proportion of patronage and advantage from the government. If the citizens of Quebec did this, there would be nothing alarming in the fact of their being French or of their being Catholic. If they do not bear their share of the national burdens,—and I am fully convinced that they do not,—the remedy is not to be found in reproaching them with being French and Catholic. The remedy is in the hands of the electors. Once any party convinces the people of the other Provinces that Quebec is getting an undue proportion of Federal money, there will go to Ottawa at the next election a majority of men pledged to the removal of the injustice. The giving of subsidies from the Dominion to the Provinces is, as Mr. Smith points out, undoubtedly a defect in our Constitution. But to declare, as he seems to,

(\* Pp. 18, et seq.)

that it cannot be changed is mere childishness, and to believe that it is more difficult to change it than it would be to make an alteration of similar importance in the Constitution of the United States, is to be deluded. If the Canadian people were as united in requesting the change as the American people must be before they can amend their Constitution, the British Parliament would make the change at once. All that is necessary to secure any change in the Constitution is a reasonable amount of unanimity among the Canadian people. The British Parliament will not hesitate to give official recognition to any such change in Canadian sentiment as is clear and pronounced. Mr. Smith himself intimates his belief that the British Parliament would pass an act sanctioning a political union of Canada with the Republic, but in the same breath asks us to believe that she would not amend the British North America Act!

The truth is that Ontario's political leaders, no less than Quebec's, are afraid to speak out and propose that the provinces should support the provincial governments by direct taxation. "The people won't stand it" is the undercurrent of opinion one finds among Canadian politicians, French and English alike. So long as the people do not believe the change to be in their interest, no change can be made. But let us be honest about it, and instead of reproaching Quebec with being French, admit that the explanation is that the people of the Dominion are under the sway of party, and that voters think more of party victory than of good government.

Again Mr. Smith takes occasion to suggest that French loyalty to Canada could not be relied upon in case of war with the United States, because two-sevenths of the French-Canadians are across the line; entirely forgetting the fact which he so repeatedly makes use of elsewhere in his argument, that nearly one-fifth of the English-Canadians also are in the United States. The French-Canadians might, with almost as much reason, impeach the loyalty of English-speaking Canadians upon this score.

It is not in reference to the race problem only that Mr. Smith takes a dark view of Canadian affairs. He intimates

on very insufficient grounds that in Canada there exists a practice of "working out" or exhausting farms and moving on to newer lands. It is doubtful if one abandoned farm can be found in Ontario. To believe that such an occurrence is common in Canada is to be mistaken.

He also has his fling at the offices of Governor General and Lieutenant Governor. It would be unwarranted to suppose that his estimate of the importance of these offices at all represents Canadian opinion. It has indeed become fashionable of late with some to say smart things at the expense of their occupants, but both the officials and the offices are generally respected by the people. Not only so, but many thinking Canadians are not at all convinced that we would improve either our officials or our system of government by electing men to these places.

The statement, again that Canada is supporting eight constitutional monarchies<sup>1</sup> is true only in the sense in which it is true that the United States are supporting forty-five constitutional monarchies. If the Provincial Government officials were too well paid we could have their salaries reduced.

It would not be just to the kindly spirit which Canadians feel towards British subjects to pass unnoticed the warning given to educated Englishmen who contemplate seeking employment in Canada. Mr. Smith thinks the individual Englishman is received with jealousy and distrust, that he does not get in Canada that even-handed justice which is meted out to him in the United States.<sup>2</sup> No Englishman need expect that in Canada the mere fact of being English will set him above natives who are equal to himself in ability and education, though it does make his chances for promotion as good as those of a native. Other things being equal he will not be, as was once the case, preferred before a Canadian; but he will be preferred before all others except Canadians. To expect more than this is only to affect superiority which is always offensive. The very fact which Mr. Smith relates—that three Englishmen have been appointed to chairs in the University

1. Pp. 234.

2. Pp. 52.

of Toronto within about a decade—is sufficient to overthrow his argument. Which of the great American universities have appointed three Englishmen to their most important and lucrative positions in that time?

In discussing the "Canadian Question" as a matter of practical politics, Mr. Smith has offered nothing new in either argument or information, but all the facts that have been heretofore adduced by various writers and speakers in favor of closer commercial and political relations with the United States are marshalled with his usual skill and acknowledged ability. The humiliation of being a dependency is noticed and made responsible for the lack of national spirit among Canadians. The difficulties in the way of independence are considered and not deemed insurmountable although great. And the glorious future that Canada might enjoy as a part of the great republic is set forth. He declares that there is no natural trade between the provinces; that their natural markets are to the south, and that the fiscal policies of both Canada and the United States, which keep the two countries from trade are the result of blundering or boodling.

The book is full of entertaining and useful information. To Americans, Australians, Englishmen and Canadians desiring a picture of Canadian social and political life it will be valuable. It must, however, be taken *cum grano*. Attention has been called to a few of the positions taken up by the author in which very many Canadians would not concur, and of much else in the book it might be said in Mr. Smith's own phrase "readers had better inquire." He has presented a view of Canadian life and politics for the purpose of advancing a political movement, and in reading the book this fact must never be forgotten. His book must not be mistaken for history. It is a clever piece of pamphleteering executed with great literary ability, but it is not—and perhaps was not intended to be—a valuable contribution to political science or Canadian history.

JOHN M. McEVoy.

*Toronto, Ont., July 17, 1891.*

ESSAYS AND MONOGRAPHS. By WILLIAM FRANCIS ALLEN. Memorial Volume. Boston, 1890.

As this is an age of book makers, when the desire of each scholar is to create a literary or scientific monument to his memory, it is gratifying to find that one of the best of such scholars has had another and a different ambition. So much of his time and energy did Professor Allen, of the University of Wisconsin, devote to other pursuits than the writing of books that all that remains of his many years of labor as an instructor, to give evidence of his ability to those who did not know him, are the dozen or more monographs contained in this volume on the primitive and mediæval institutions of Germany and England.

For classical studies his work has been mainly confined to text editing and text book writing, and his essays on Roman affairs, though unquestionably interesting, cannot be considered permanent in their influence. His chief work in this field was devoted to the study and criticism of Tacitus, to which he was led by his unflinching interest in everything connected with Germanic history. He has published excellent editions of the *Agricola* and *Germania*, and his last work of this kind was an edition of the first six books of the *Annals*. These editions are characterized by thorough knowledge of the latest results of philological and historical investigation. He had embodied all the learning of the Germans without their dullness and pedantry and has shown everywhere such keen appreciation of the necessities of students in this country as to render his text books invaluable for those who would read intelligently the great historian of the empire. It was this sympathetic spirit for the difficulties of the problems which he examined that led Professor Allen to be moderate in his judgment and undogmatic in his conclusions. He wrote eleven articles treating of institutional and economic history: *The Primitive Democracy of the Germans*; *The Village Community and Serfdom in England*; *The Village Community and Feudal Manor*; *Town, Township and Tithing*; *Primitive Communities*; *Peasant Communities in France*; *Ranks and Classes among the Anglo-*

Saxons; The English Cottagers of the Middle Ages; The Origin of the Freeholders; The Rural Population of England as classified in Domesday Book; The Rural Classes of England in the Thirteenth Century. From the treatment of these subjects it is evident that had Professor Allen devoted himself to the investigation of primitive and mediæval institutions he would have thrown much light upon the vexed question of primitive land holding, the village community, the origin of the lord of the manor, and the mediatization of the *ceorl*. His work is not that of an antiquarian, but of a broad-minded historical scholar.

The order in which these monographs appear in this volume is not the order of their production. Professor Allen's investigation of the twelfth and thirteenth centuries preceded the study of the earlier periods and therefore we read the results of the ripened scholarship first. The latter shows the stimulus of the work of Seebohm and Fustel de Coulanges, while the former is more in touch with the spirit which was prevalent twenty years ago. Still Professor Allen wrote very carefully and has given us little opportunity for criticism. Probably the weakest of the essays is that on "Peasant Communities in France." It is not profound and the work has been much better done by French writers. In the "English Cottagers of the Middle Ages" we have the merit of clearness in the attempt to explain the position of the different peasant classes. He is wrong in asserting the "cottagers" to be an outgrowth of the village community, for there is no mention of them, technically speaking, before the ninth century. Their tenure represents a stage in the development of the manor in England. He is also wrong in considering the *gebûras* of the Rectitudines as an unfree class; they were, it is true, in a harsh condition of serfdom but this was bondage toward the lord and the land; they were free in all other respects, a condition not true of the slave proper. Again, it is doubtful if the tenants in demesne were of necessity of the slave class, for it is to be remembered that the lord's demesne included strips in the open fields and enclosures in the *essarts* and meadows as

well as land in the immediate vicinity of the manor house. By the time of Domesday book much of this land was in the hands of *gebúras* and *colsetlas*. The latter he considers the same as the *bordarii* and is himself confused regarding their location. On page 307 he says: "In the first place the *bordarii* are regularly associated with the *villani* from which it appears that they occupied the village and not the lord's demesne;" on page 320 he states the exact opposite, "[the *bordarii*] had cottages (*bord*) not in the village proper but on the lord's demesne or 'inland'." Probably both were true.

Especially valuable is the discussion of the *sochmanni* and the freeholders. The former he finds through the aid of etymology and evidence to be a class in nearly the same social position as the *villani* but not, as were the *villani*, members of the village organization and he would explain their peculiar position by reference to a Danish origin. The freeholders he would trace to a purely feudal origin, a class appearing sometime between Domesday book and the Abingdon Chartulary (1086-1185). This theory would give them no historical connection with the original freeman and the absence of freeholders from the manor of the Rectitudines forms a serious hiatus in the chain of evidence for the old theory, which however, has been generally advanced without much evidence. This conclusion leads to one of the most important of Professor Allen's views (in which however he follows Ritson and Elton) that the customary court of that class which later received the name of copyholders, was the survival of the village meeting. Still as the feeling at present is that the village meeting was not a court at all it is doubtful if any of the manorial courts can be traced to it.

The next in importance of Professor Allen's views is his denial of the accepted distinction between *eorl* and *ceorl*. This distinction he considers merely personal and not hereditary. We cannot discuss the question here, but since the laws and the poets give no clear evidence of such class distinction, the subject is worthy of a more critical examination. Professor Allen also defended the freedom of the village community and the

*ceorl*; he was in favor of a composite origin for the manor and defended Bishop Stubbs' view of the constitutional position of the English town. But his criticisms are always moderate and his judgments are given only after careful study.

CHARLES M. ANDREWS.

*Bryn Mawr College.*

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THE FRENCH REVOLUTION. By E. BELFORT BAX. Pp. 119. London: Swan Sonnenschein & Co. Social Science Series.

This sketch is a socialistic interpretation of the French Revolution. It appeared originally as a serial of twenty-six chapters in *Justice*, the weekly socialistic organ, in 1889. It makes little of the military aspect but presents the operations of economic, philosophical and political forces with commendable clearness.

Rousseau was the voice crying in the wilderness; "Back to Nature." His educational theories in *Émile*, his social polity propounded in the *Contrat Social* contain his message to men. Upon the bourgeoisie of France in its political nothingness came this leavening thought and made it everything; not that all else was destroyed, but that whatever survived the ruin was absorbed into the new-made social class—the third estate of the old. In this we have Bax's conception in the rough of the real cause and the visible result of the French Revolution. It was Rousseau and Voltaire who demonstrated to the mind of France the possibility of revolution. But whence the forces to execute it? Not in the nobility, nor the clergy, both of whom by long-continued evasion of responsibility had doomed themselves to an incapacity for bettering the state of things in which they lived. The great heart of the monarchy had ceased to do its work and the nation rallied to save itself from death.

Women and workers—in these two words we touch the nerve of the French Revolution. They are not, it is true, the stage-characters throughout, but he who will read the records again will find that the moral energy of the movement lay in these social classes which did the toiling for the degenerate dynasty. Bax does a creditable service to the general reader in setting

forth this view in so hopeful a light. He writes for seekers after a better order of society and carries the sympathies of the reader with him, if he does not win his conclusions. The book would make a helpful outline for a more extended review of the Revolution by those who wish to read the story again from a new point of view.

JOHN F. CROWELL.

*Trinity College, N. C.*

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THE ENGLISH CONSTITUTION. By ÉMILE BOUTMY. Translated by ISABEL M. EATON, with an Introduction by SIR FREDERICK POLLOCK. Pp., xvii, 212. London and New York: Macmillan & Co., 1891.

STUDIES IN CONSTITUTIONAL LAW. France—England—United States. By ÉMILE BOUTMY. Translated by E. M. DICEY, with an Introduction by A. V. DICEY. Pp. xiv, 183. London and New York: Macmillan & Co., 1891.

The first of these works treats of the development and growth of the English Constitution since the Norman Conquest, and its scope may best be understood from the titles of some of the representative chapters, such as: The Higher Baronage and the Peerage; The Knights and the Burgesses—The Decay of the Feudal System; Colonization, Commerce and Industry before the Eighteenth Century; The Country Gentlemen; The Agricultural Laborer; and so on. There are chapters, though few in number, devoted to more strictly constitutional and legal subjects, but in the main this is an economic study of the English Constitution and an investigation into the position occupied by the various classes of society during the last eight hundred years. Such a method has its advantage and its weakness. By concentrating our attention upon one or two lines M. Boutmy has, perhaps, brought out these features of the English Constitution more clearly than has any other writer in so few pages. But as a general view of the subject, even though a distant bird's-eye view, there are many defects, prominent among which are the minor attention given to the history of Parliament and the inadequate treatment of the origin and growth of the English judicial system. For this and

other reasons this is not a book to put into the hands of the general reader; a false notion of the perspective of English constitutional development will be obtained, and, what is of more importance, the relative influences of the factors that have contributed to the growth of popular government will be missed altogether. The teacher and the advanced student however, will find much in it that is suggestive, but it needs constantly to be supplemented and corrected by reference to other writers. In spite, therefore, of its short-comings M. Boutmy's essay is of no small value to those who read it critically.

The studies in constitutional law are more satisfactory; in these the author has sought, first, to sketch broadly the sources and present workings of the Constitutions of Eng'land and the United States, and in his third essay to discuss the subject of sovereignty and constitution-making in these two countries and in France; in all three chapters the clear, logical, systematic French mind suggests points of view which doubtless had not before occurred to us, and renders us in many places a real service. The chapter on the United States has a special interest for Americans; in this M. Boutmy astonishes us, both by his acute penetration into some of the subtleties of our constitution, and also by occasional misapprehension or misinformation on very simple matters. On the whole it is an excellent chapter. To this volume Professor Dicey has added many valuable short notes, and in each case the translation is so well executed that one is never reminded that these works were written in another language. C.

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PRIMI ELEMENTI DI ECONOMIA POLITICA, VOL. I., ECONOMIA SOCIALE, DEL DOTTOR LUIGI COSSA, Professore Nella R. Università di Pavia. Ninth edition. Pp. 226. Milan: Hoepli, 1891.

This is a revised and enlarged edition of a little book, at first hardly more than a primer, on political economy, which has become very popular in Europe, having been translated into French, German, Russian, Polish, Spanish, and Portuguese. Eight editions of the original have come and gone

since 1875. The peculiarity of the ninth edition is, that its text has been carefully revised and in certain chapters enlarged, and that it contains much fuller bibliographical and historical material than the preceding editions. This latest edition is made a vol. I. in what will be a series or system of Cossa's First Elements of Economics. Volume II, now in preparation, will treat of Political Economy in the strict sense. Volume III, is the edition, corrected and enlarged, of Cossa's little Science of Public Finances, which has already been translated into English. The three volumes will form, the author assures us, a strictly co-ordinated and homogeneous whole. The chief characteristics of Cossa's "Elements" are two: its eminent soundness in economic doctrine, and its wonderful clearness coupled with brevity. Cossa stands, in the main, upon the ground of the English school as represented in Mill's "Principles," but he has the insight to observe on the one hand the relativity which attaches to most economic doctrine, and on the other, the fixedness and finality of the main principles of the science. In scientific exposition he is a master. His analysis of each subject is complete, exact and perspicuous, and every topic is placed before the reader's mind in a few clear and telling propositions. Not a sentence is unclear: not a word is lost. The historical sketch of political economy as a science, which begins this volume, the author has brought to date. It, with the bibliography at the end, also brought to date, affords the best brief conspectus extant of the present condition of economics in Europe. The account of Italian authors and works is particularly valuable. American students of economics wishing to master Italian, a very desirable as well as a very easy attainment, would find Cossa's "*Elementi*" a good book with which to begin. The subject matter, being familiar, would aid in the mastery of the the vocabulary and even of the grammar.

E. BENJ. ANDREWS.

*Brown University.*

LAWS OF THE UNITED STATES RELATING TO CURRENCY, FINANCE AND BANKING, FROM 1789 TO 1891. Compiled by CHARLES F. DUNBAR, Professor of Political Economy in Harvard University. Pp. 309. Boston : Ginn & Co. 1891.

The intent of this excellent collection which will be welcomed by all teachers and students of political economy and financial history is to bring within easy reach the important parts of our national legislation relating to currency, coinage, loans and banking. It is based not upon the revised statutes, but upon the statutes at large, thus giving a succinct historical review of the financial legislation from the establishment of our government to the present day. Besides the sections devoted to currency, finance and banking, there is one on coins and coinage from 1789 to 1891. The whole is judiciously supplemented by the texts of certain vetoed bills and of a few other documents of historical importance, which, although not among the statutes, are none the less significant. No one could be more admirably fitted than Prof. Dunbar for the work in question, and the utmost reliance may be placed upon his judgment in the selection of such portions of the legislation as really concern the student. The only regret is that one so well qualified by long experience has refrained from any kind of commentary and given us only the unelucidated text.

J. H. R.

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DE LA PROPRIÉTÉ ET DE SES FORMES PRIMITIVES. Par ÉMILE DE LAVELEYE. Quatrième édition. Revue et considérablement augmentée. Pp. xxxi, 562. Paris : Alcan, 1891.

The work of M. Laveleye is so well known and the judgments passed upon it are so clear and definite that it is only necessary for the reviewer to discover how far the new edition differs in arrangement and matter from the English translation familiar to most readers and to what extent there is to be found any alteration of opinion or modification of view.

This may be done the more readily by capitulating the additions and omissions, taking the chapters in their order. In so doing it will be noticed that we have enclosed in parentheses

the chapters of the former work and marked the pages with italicized numerals. I and II remain unchanged. III adds two important notes (pp. 27-34). IV is divided into two parts ; in part first there are a few new references bringing the evidence for Java up to date, and an omission of two pages (47-48), part second (58-77) is new, and discusses in detail collective property in Java (the *desa*) and is based on government reports. V (VII) shows slight additions in text and notes (85-6, 91, 98-9). VI is new and examines later evidences of an ancient agrarian régime in Germany. It is taken from the German translation of Laveleye's work by Bücher. VII (V) is on the Swiss *allmend* and is unchanged except for the omission of page 86 and the addition of eight pages, (144-152) in which is given an account of a visit to the *allmends* of Baden and Switzerland, with a note (142) containing sources for the *allmends* in Alsace. VIII (VI) is unchanged. IX. is new, and discusses the allmend in Upper Germany and compares it with that of Switzerland. X is new, containing an account of the *Allmaenningar* of Scandinavia and Finland. XI (XXI), XII (XXIII), and XIII (XXII) are unchanged, save for a few corrections of figures, a few additions (232, 237-238, 253, 255), and an elaboration of statistics (234). XIV and XV are new and concern property in Scotland, the United States, Spain and Italy. XVI (VIII) is unchanged. XVII and XVIII are new, on property in the Punjaub and Japan based on recent reports. XIX is new and is from Bücher ; it discusses land holding among the Indians of South and Central America in archaic times. (IX) forms two new chapters, XX, XXI; the first on land among the Arabs and others, the second on land among the Danes. This arrangement has resulted in much remodelling and enlargement. XXII (XXIV) on Indian village communities contains slight additions (338), with two pages (352-353) on recent progress of the idea of nationalization of the soil. XXIII (XXV) is unchanged. XXIV (X) has been carefully revised, yet in the main is unchanged ; 139-140 have been enlarged to 363-367. XXV (XI) is unchanged save for a note on the depopulation of Greece. XXVI (XII)

is unchanged. XXVII (XVII) contains a few new paragraphs (415). XXVIII (XVIII), on landed property in England and China, shows a slight revision and a few scanty references to Taylor, Gomme and Seebohm. XXIX (XIII) adds a few paragraphs descriptive of families among the ancient Americans, (459-462). XXX (XIV) has a few added notes (463, 470, 471), authorities (475) and paragraphs at the end, giving a picturesque account of the *zadrugas* (478-486). XXXI (XVI) adds paragraphs on the family community in North Hungary (489-492). XXXII (XV) contains slight additions (502, 511, 514). XXXIII (XX) on hereditary leases, enlarges page 271. XXXIV (XIX) is unchanged. XXXV (XXVI) omits notes (332, 336) and adds quotations from Roscher (538) and Ihering (540). XXXVI (XXVII) on the theory of property remains wholly unchanged : the few verbal changes and additions are trifling.

This brief outline shows the character of the revision and extensive enlargement mentioned on the title page, but it does not at all justify the claim that the fourth edition of *La propriété primitive* is a new work. Notwithstanding these extensive additions it will be noticed at once, both from the preface and from the work itself, that M. Laveleye has in nowise modified his views ; further than this it may be said that on the subject which forms the title of the book there has not been added a fruitfully new thought. M. Laveleye displays an astonishing disregard for the critical study of mediæval institutions which has gone on since 1878. Some of the most important chapters from this point of view are in the fourth edition as in the first, superficial and wholly without a real understanding of the difficulties of the question involved. He accepts without comment the extra-European origin of the Aryans. For England Nasse is almost the only authority ; for India Campbell and Elphinstone. For Greece the same interpretation of the same passages. There is also to be seen the same unfortunate tendency toward vague statement, as for instance, in this sentence, "The Swiss allmend pictures to us to-day the primitive life of our ancestors upon the plateau of

Iran," and in the discovery that "in American democracy we find all the characteristics of primitive democracy." Such statements are out of place in the present stage of historical research. But M. Laveleye is an economist, not an historian, and his work suffers thereby.

If the chapters which treat historically of primitive forms of land holding were cut out and a careful excision were made of many comments and deductions, then the remainder of the work would have a considerable value. For M. Laveleye has brought together a large amount of information which may or may not represent to us the system employed by Indo-European peoples in the early stages of economic development. Such information not readily accessible regarding land cultivation and ownership, has a value apart from that here given to it, for it is too heterogenous in character, and of too recent a date to be available for the application of the comparative method. Therefore the main thesis of the book remains as it was before unproven.

*Bryn Mawr College.*

CHARLES M. ANDREWS.

OUR SHEEP AND THE TARIFF. By WILLIAM DRAPER LEWIS, Fellow of the Wharton School of Finance and Economy. Publications of the University of Penna. Vol. II of the Political Economy and Public Law Series. Pp. 158. Philadelphia: University of Penna. Press, 1890.

In view of the importance of the tariff controversy on the one hand, of the extraordinary growth of political and economic studies in our Universities on the other, it is surprising that our institutions of learning should have contributed so little to the sober and unbiassed consideration of the burning question. Within the last year or two, however, there have been signs of greater attention to the topic. The volume before us is an evidence of this change, and a gratifying one. Mr. Lewis's study is a distinct contribution to our knowledge of the subject he treats, and in tone and temper shows a great advance over the usual discussion of it, whether by the advocates or opponents of the duties on wool. He has gathered a wide range of information, largely by inquiry

and correspondence among those actively engaged in raising wool or dealing in it, and has presented his facts in interesting form. Even those who may not accept his conclusions will read his pages with interest and profit. His tone shows the result of scientific training : he is cool and straightforward.

Mr. Lewis's general conclusions are, that the retention of the present duties on clothing and combing wool is desirable ; but he intimates that there are no good grounds for retaining those on carpet wool. The reasoning on which the conclusion in favor of retaining the duties on the finer grade of wool is based, is of two sorts : partly general reasoning as to the effects of import duties, and partly specific inquiry as to the condition and prospects of wool-growing in the United States. So far as the general reasoning is concerned, it is not to Mr. Lewis's discredit to say that it shows the influence of teacher on pupil rather than the marks of independent thought. The working of the law of diminishing returns under the influence of international trade, and the adaptation of the habits and wants of a people to their industrial environment—these are topics on which he is clearly under the influence of Professor Patten, and has added little to the reasoning of that scholar. This is not the place for a discussion of Professor Patten's presentation of the case for protection, of which it can certainly be said that it puts the arguments on a new and less narrow basis, and deserves, more than much of the reasoning generally in vogue, a serious and painstaking consideration. The present writer has not found himself convinced by it when presented by its author, and not more so in the form which it takes in Mr. Lewis's paper ; but to enter here on a statement of the grounds of his opinion would carry him too far afield.

In Mr. Lewis's examination of the concrete conditions of wool-growing in the United States he has more to say that is new ; and indeed this part of the paper seems to hang somewhat loosely on the general reasoning which has just been referred to. The failure of the wool-growers of the United States to supply all the wool the country uses is ascribed to a variety of causes. Partly it is traced to physical causes, such

as difficulties of soil and climate; partly to defective land legislation; partly to ignorance among the farmers as to the advantageous breeds of sheep, and to habits among the farmers that stand in the way of sheep raising, such as the dog nuisance in the South; and partly to general harmful customs, such as the lack of uniformity in grading, the practice of not sorting wool before it comes to market, and so on. Much of the matter here is fresh and helpful, and many of Mr. Lewis's conclusions may be commended without reserve. Mr. Lewis admits that the list of drawbacks is a formidable one and may "lend ammunition to those who assert that we cannot raise wool in this country." Too much stress, in fact, seems to be laid on the miscellaneous difficulties, and on the obstacles of ignorance and custom. The permanent obstacles from climate and general economical conditions, weigh more in the scale than Mr. Lewis would give us to suppose. In the strictly agricultural regions of the United States, where sheep and wool are a by-product of general farming, they will never be raised in great quantities and yet will always be maintained to a certain extent, whether there be a duty or none. In the ranching regions of the West, where alone sheep-raising on a great scale can develop, the greater rigor and greater uncertainty of the climate and the less favorable condition of soil and rainfall, make it probable that Australia, with vast quantities of land which is not fitted for general agriculture and is happily fitted for wool-growing, can supply us for a long time to come with fine wool more cheaply than we can raise the total supply for ourselves.

Useful tables on the production and importation of wool, on the total consumption by the United States, and on the distribution of wool-growing in the world, are incorporated in the volume. There is an excellent account of the mode in which sheep-raising is carried on in Australia, and a brief sketch, not perhaps so satisfactory, of the land legislation of the Australian colonies. An index would have added much to the usefulness of the paper.

F. W. TAUSSIG.

*Harvard University.*

PRUSSIAN SCHOOLS THROUGH AMERICAN EYES. BY JAMES RUSSELL PARSONS, JR. Pp. 110. Syracuse, N. Y. : C. W. Bardeen, 1891.

This book is a report to the New York State Department of Public Instruction on the organization, classification and work accomplished in Prussian elementary schools. Its author, Mr. Parsons, having served as United States Consul at Aix la Chapelle has been in a position to gather accurate information on the subject. "The reader follows the would-be elementary school teacher through the elementary school, the school preparatory to the normal, the normal school and the final examinations. An attempt is made to state clearly and concisely the minimum of work required of each Prussian child and the provisions by which the accomplishment of this work is secured." The book is just what it claims to be, and for that reason helps to fill a want long felt by American teachers interested in European school systems. Its perusal cannot fail to be suggestive because of the many differences that become apparent between Prussian and American schools. The report itself does not undertake such a comparison, except incidentally, but it necessarily takes place in the mind of anyone thoroughly acquainted with our public school system. That the Prussian schools are superior to our own in many important respects is clear. The fact that the ungraded schools of Prussia compare very favorably with the graded schools is worthy of notice. The effect of the compulsory school law is encouraging to us. The different course of study for the common schools, the more professional character of the normal schools and the longer tenure of office on the part of teachers, are all subjects of interest and practical value to us.

It is to be regretted that the method of instruction is not more fully touched upon. That, however, ought hardly to be attributed to the book as a defect, as it is not a principal aim of the author to discuss the subject of method.

The book on the whole is certainly a valuable contribution to our literature on education.

F. M. McMURRY.

*Normal, III.*

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OXFORD LECTURES AND OTHER DISCOURSES. By SIR FREDERICK POLLOCK, BART. Corpus Professor of Jurisprudence in the University of Oxford, etc. Pp. 303. London: Macmillan & Co., 1890.

The twelve lectures and essays collected in this volume fall into two groups, the first six lectures having a unity of subject and relation lacking in the more miscellaneous contents of the second half of the volume. Of this first series the opening one, on the "Methods of Jurisprudence," is a lecture delivered at University College, London, the others being public lectures given at Oxford. A public lecture, as explained in the preface, while dealing with subject matter of the lecturer's special department is not addressed to specialists and is on that account popular rather than technical in manner. To the layman therefore, as well as to the lawyer, the opening lecture and the one next following on "English Opportunities in Historical and Comparative Jurisprudence" afford an admirable exposition of the scope, the methods and the aims of legal science as they are understood by that school of English jurists, of which Sir Frederick Pollock is a distinguished leader, and of which the late Sir Henry Maine may be considered the founder, while the lectures on the King's Peace and the English Manor are brilliant and valuable examples of the application of sound methods to the elucidation of particular subjects in legal history. The first series closes fittingly with a memorial address on the life and work of Sir Henry Maine, the predecessor in his professorial chair of Sir Frederick himself.

The titles of the remaining articles will indicate their contents. "Religious Equality," a discourse in the "Doctor and Student" manner, is a discussion of the questions of disestablishment and disendowment; "Home Rule and Imperial Sovereignty;" "Examinations and Education;" "Law Libraries;" "The Library of the Alpine Club," and finally, contrasting rather oddly with the legal character of the bulk of the volume, "The Forms and History of the Sword." Of these the one perhaps most worthy of thoughtful attention on this side of the Atlantic is the article on the question of Home Rule. Accustomed

as we are to the local autonomy of our States, Americans are apt to think the constitutional considerations involved in the question but little more complex than those involved in conferring statehood on a territory. If it be shown that in Ireland's case any plan of Home Rule must inevitably bring about profound modification of the constitution of the British Empire, going even to the extent of change of its fundamental character, it will at least appear that the question is not one to be settled off hand nor upon half knowledge, and also that the needs and wishes of the Irish people are not alone to be taken into account.

If the inclusion in this collection of the final discourse on the sword require for its justification Sir Frederick's jesting misapplication of Bracton, his readers will readily accept that or any other excuse for so agreeable an evidence of his versatility. Few men lack even a latent spark of martial ardor and this may easily interest a wider circle of readers than any other lecture in the volume.

EDWARD V. RAYNOLDS.

*New Haven, Conn.*

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A TARIFF PRIMER: The Effects of Protection upon the Farmer and Laborer. By PORTER SHERMAN, A. M. Pp. 54. Questions of the Day Series. New York: G. P. Putnam's Sons, 1891.

MR. Porter Sherman's little book undertakes to refute the protectionist argument, particularly as regards the effect of the tariff on the farmer and laborer. The two main points considered are the doctrine of international trade and the effect of the tariff upon wages. His exposition is vigorous, and his conclusions that international trade, like other trade, must be mutually advantageous to the parties concerned, and that the term "balance of trade," as ordinarily used, is a meaningless phrase, seem sufficiently clear to convince any tariff babes that may have got as far as the primer stage. He points out the source of wages, how they compare in free-trade and protectionist countries across the sea, and the natural causes that go to make wages high in the United States.

If the author could only get the ear of the "eternalists," as

President Andrews styles them, and they in turn would be willing to accept instruction "as little children," doubtless his logic would convince. But from the point of view of rational protection, such as Hamilton and Madison promulgated, and which is after all the bulwark of our tariff system, much remains to be desired. In a single chapter only (IV) does the author recognize this view of the question, and then merely to characterize it as the position of "some German economists." To Mr. Sherman the key to the whole situation is the principle of *laissez-faire*, and the only question, one as to whether protection is a wealth producer—as if the greater matter were not the distribution of wealth! He finds that protectionists themselves accept the statement that "the object and effect of protection is to divert industry into fields of employment into which they would not naturally flow if left to themselves." And this to the *laissez-faire* philosopher is equivalent to saying "into fields less profitable and less desirable." But is not this the real point at issue?

The question which should be asked, at least in a primer, is whether the tariff has at present anything to do with making or keeping our industry sufficiently diversified. And here Mr. Sherman has not very carefully guarded his argument; for instead of making it clear, for instance, that the higher wages in manufacturing industries in the United States are earned, he loosely states (p. 43) that the conditions of farming have made it necessary for the manufacturer to pay higher wages than he otherwise would. This is about all the concession the protectionist desires.

The trouble with the book is that the tariff problem is not quite so simple as Mr. Sherman supposes. Still, if it stimulates inquiry and investigation, it will probably do all that its author hopes for in the solution of this much-vexed problem.

O. L. ELLIOTT.

*Leland Stanford Jr. University.*

## NOTES.

THE members of the Academy will note a change in the editorship of the ANNALS. Prof. F. H. Giddings has, owing to pressure of other work, been obliged to resign his position as associate editor, and has been replaced by Dr. James Harvey Robinson<sup>1</sup>.

A NEW quarterly journal of political science (*Zeitschrift für Volkswirtschaft, Socialpolitik, und Verwaltung*) has recently been organized in Austria and a prospectus issued. While the journal will be devoted, first and foremost, to a consideration of concrete problems relating to Austria, theoretical and scientific topics of a general nature, as well as descriptions of the institutions of other countries are by no means excluded, provided that they are handled in an earnest and scientific spirit. The body articles are to be supplemented by the usual current information, notes and book reviews. The periodical is to be the organ of the Austrian Economic Association (*Gesellschaft österreichischer Volkswirthe*) and will contain the proceedings of that body in a condensed form.

The new publication is the only one of the kind in Austria. From the character of its editors, Dr. v. Boehm-Bawerk, Dr. v. Inama-Sternegg, and Ernst v. Plener, there is every reason to infer that it will soon make a worthy place for itself among the journals of a similar class which are relatively so abundant among the German-speaking people and so scarce, it may be observed, elsewhere.

MR. WESTON FLINT, Statistician of the Government Bureau of Education, kindly corrects a misstatement in Mr. Wil-

<sup>1</sup> For biographical notes see p. 79 of the current number of the ANNALS.

loughby's recent article "Statistical Publications of the United States," (ANNALS OF AMERICAN ACADEMY, September, 1891). Mr. Flint informs us that the reports of the Bureau of Education are not as Mr. Willoughby inferred compiled largely from printed reports and catalogues, but on the contrary in later years are chiefly based upon original data received directly from the various educational institutions in response to special inquiries sent out by the Bureau. For instance, in the one division of secondary schools there will be this year nearly seven thousand special reports from as many schools in the United States, giving detailed statements as to students, studies pursued and other items, a large portion of which are not given in any publication except the reports of the Bureau.

THE first part of the classified bibliography of the Italian works on Economics recently announced<sup>1</sup> has appeared in the *Giornale degli Economisti* (October, 1891). The compiler, Prof. Angelo Bertolini, aims to include in the list all the works published in Italy during the period 1870-1890. The detail of the work as shown in the brief portion now ready is quite minute and promises well for the permanent value of the undertaking.

It is proposed to begin on November 1 of this year the publication of a monthly periodical, to be called *The Charities Review*, devoted to the discussion of social and economic questions and to the consideration of subjects of special interest to active workers and students in the field of charities. It will contain, beside papers on the principles and methods of organized charity, accounts of successful experiments in improving social conditions, reviews of works on social and economic subjects, biographical sketches, comments on current events of interest, notes and news.

The editor invites the co-operation of all those interested in any special field of social reform, and would be grateful for any articles, items of interest or suggestions relating to the work.

<sup>1</sup> ANNALS, Vol. I, p. 705.

The *Review* will have among its contributors many prominent writers on social and economic questions and specialists in philanthropic work in this country, and arrangements have been made for contributions from England, France and Germany. It will be edited by John H. Finley, of New York city.

The *Review* will be published monthly during eight months of the year, under the auspices of the Charity Organization Society. The subscription price will be \$1.00 per annum.

## ADDITIONS TO THE LIBRARY.\*

### DONATIONS.

ALL works and periodicals sent to the Academy are acknowledged in this list. Where the name of the publisher appears in any work, and no indication of the source from which it was received, it is understood that the Academy owes the gift to the courtesy of the publisher.

In acknowledging periodicals the principal signed articles of political and social interest are named.

### NORTH AMERICA.

#### Canada.

Report of the Minister of Agriculture for the Dominion of Canada for the year 1890. Pp. xli 176, 113.

Appendix to the Report of the Minister of Agriculture.

Experimental Farms. Pp. 314.

List of Shareholders in the Chartered Banks of the Dominion of Canada as on the 31st December, 1890. Pp. 375.

Report of Registration of Births, Marriages and Deaths in the Province of Ontario, 1889. Pp. 49 and clxxxiii.

Canal Statistics for 1890. Pp. xlv and 119.

Report of the High Commissioner for Canada for 1890. Pp. 86.

Rules, Orders, etc. of the House of Commons of Canada. Pp. 341.

Annual Report of the Dairy Commissioner for the year 1890. Pp. VII. and 184.

Imperial Deck Load Legislation. Pp. 13.

Report of the Minister of Education (Ontario) 1890. Pp. xxxi and 437.

Report on Compulsory Education in Canada, Great Britain, Germany and the United States. 1891. Pp. 100.

Estimates for the fiscal year ending 30th June, 1892. Pp. 94.

\* This list does not include books received after August 20th.

- Estimates of the Province of Ontario, 1891. Pp. 53.  
Annual Report of the Department of Fisheries, 1890. Pp. lxiix  
and 148. Part II., pp. 41.  
Fisheries Statements and Inspectors' Reports for 1890. Pp. xxvi,  
212, 88.  
Forestry Report, 1889-90. Pp. 124.  
Report of the Department of Immigration for the Province of  
Ontario, 1890. Pp. xv and 29.  
Annual Report of the Department of Indian Affairs for 1890. Pp.  
xxxvi, 313, 230.  
Annual Report of the Bureau of Industries, 1889. Pp. 108.  
Report, Returns and Statistics of the Inland Revenues of the  
Dominion of Canada for the fiscal year ended 30th June,  
1890. Pp. xxxv and 181. Part II., Weights and Meas-  
ures and Gas Inspection. Pp. 59. Part III., Adulteration of  
Food. Pp. 67.  
Preliminary Abstract of the Business of Canadian Life Insurance  
Companies for the year ending 31st December, 1890. Pp. 17.  
Abstract of Statements of Insurance Companies in Canada, 1890.  
Pp. 56.  
Annual Report of the Department of the Interior for the year 1890.  
Pp. xxxii and 187.  
Report of the Commissioner of Crown Lands of the Province of  
Ontario, 1890. Pp. ix and 81.  
Department of Militia and Defence—Annual Report—1890. Pp.  
xiii and 235.  
First Annual Report of the Inspector of Mines. Pp. 28.  
Report of the Department of Mines, Nova Scotia, 1890. Pp. 48  
and xxvi.  
Fifth Annual Report of the Commissioners for the Queen Victoria  
Niagara Falls Park. Pp. 13.  
Report of the Commissioner of the Northwest Mounted Police  
Force, 1890. Pp. 203, with maps.  
Report of the Postmaster-General for the year ended 30th June,  
1890. Pp. xxvi and 294.  
Twenty-first Annual Report of the Inspector of Prisons and Public  
Charities upon the Hospitals of the Province of Ontario, 1890.  
Pp. 72.  
Report of Inspector of Prisons and Public Charities upon the Houses  
of Refuge and Orphan and Magdalen Asylums, 1890. Pp. 79.  
Annual Report, Department of Public Printing and Stationery, for  
the year ending 30th June, 1890. Pp. 48.  
Maps to Accompany the Annual Report of Public Works of Can-  
ada. 38 maps.

Report of Minister of Railways and Canals, 1889-90. Pp. lxxxvii and 367.

Railway Statistics of Canada, 1890. Pp. 62.

Report of the Board of Civil Service Examiners for the year ended 31st December, 1890. Pp. 56.

Report of the Secretary of State of Canada for the year ended 31st December, 1890. Pp. 53.

Reports of Boards of Steamboat Inspection, 1890. Pp. 247.

Evidence on the Export Cattle Trade of Canada. 1891. Pp. 316.

Sixteenth Annual Report of the Ontario Agricultural College and Experimental Farm, 1890. Pp. 262.

Annual Reports of the Bee-keepers and the Poultry Associations. Pp. 43.

Annual Reports of the Dairymen's and Creameries' Associations. Pp. 184.

Above Reports from J. G. Bourinot, C. M. G.

Fourth Annual Report of the Canadian Institute. Session 1890-91. Pp. 89.

Transactions of the Canadian Institute, March, 1891. Pp. 293.

From the Institute.

Proceedings and Transactions of the Royal Society of Canada for the year 1890. Pp. li.

From J. G. Bourinot, C. M. G.

FLEMING, SANFORD. Time-Reckoning for the Twentieth Century. Pp. 11.

From the Canadian Institute.

HOUSTON, WM. Constitutional Documents of Canada. Pp. xxiii and 338. 1891. Carswell & Co. Toronto.

Toronto University Studies in Political Science. First Series, No.

II. "Municipal Monopolies and their Management." By A. H. SINCLAIR. Pp. 38.

From Prof. W. J. Ashley, Editor.

SMITH, GOLDWIN. "Canada and the Canadian Question," 325 pp., with map. Macmillan & Co., N. Y., 1891.

From the Author.

Papers relating to the Development of Trade between Canada and the United States. Pp. 85.

Documents Relating to the Fixing of a Standard of Time and the Legalization thereof. Pp. 36.

From J. G. Bourinot, C. M. G.

Dominion Illustrated, The. Current Numbers.

Week, The. Current numbers. From the Editors.

**United States.**

American Academy of Arts and Sciences : Report of Council, May 27, 1890. Pp. 42.

From A. E. Dolbear.

Bureau of the American Republics : Bulletin No. 1. Jan., 1891. Handbook of the American Republics. Pp. 288.

From the Bureau.

Sixth Biennial Report of the Bureau of Labor of Illinois. 1890. Pp. 420.

From the Bureau.

Sixth Annual Report of the Bureau of Labor, Kansas. Pp. 233.

From Frank H. Betton.

Kansas State Historical Society.

Kansas Historical Collections. Vol. IV. 1886-1890. Pp. 819. 1890.

From the Society.

Annual Report Boston Children's Aid Society, 1890. Pp. 31.

From C. W. Birtwell.

Annual Report of the Board of Gas and Electric Light Commissioners, January 1891. Massachusetts.

From Walter S. Allen, Secy.

Report of the Special Commission on Taxation, Boston. 1891. Pp. 29.

From George G. Crocker.

Report Superintendent of Public Instruction. Year ending June 2d, 1890, Pennsylvania. Pp. xlv and 376.

From the Superintendent.

Annual Reports of the Board of Directors of City Trusts, of Philadelphia, for the years 1881-82-83-84-86-87-88-89-90.

Annual Reports of the Board of Regents of Smithsonian Institute, for 1885, Part I, Pp. 996; for 1886, Part I, Pp. 878; for 1887, Pp. 734; for 1888, Pp. 839; for 1889, Pp. 815.

Report of Smithsonian Institute for 1888. Report of United States National Museum. Pp. xxii and 876.

From the Institute.

Seventh Biennial Report. Superintendent of Public Instruction, 1889-90, Austin, Texas. Pp. lii and 285.

From H. C. Pritchett.

Vermont State Agriculture Experiment Station, Nos. 23, 24, 25.

From Wm. D. Lewis.

Arena, The.

Current numbers.

Book Chat.

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Boston Journal of Commerce, The.

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Bradstreet's.

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Bulletin of National Association of Wool Manufacturers, March and June.

Christian Union, The.	Current numbers.
Dawn, The.	" "
Dial, The.	" "
Engineering and Mining Journal, The.	" "
Economist, The.	" "
Evangelist, The New York.	" "

From the Editors.

Forum, The

April, 1891. "What Can We Do for the Poor?" W. S. RAINSFORD, "Trade-Unionism and Utopia," W. H. MALLOCK; "Railway Passenger Rates," ARTHUR T. HADLEY.

May, 1891. "State Rights and Foreign Relations," T. F. BAYARD; "The Commonwealth of Australia," SIR RODERICK W. CAMERON; "The United States Census," FRANCIS A. WALKER; "Reciprocity—Why Southward Only?" ROGER Q. MILLS; "Spain a Democratic Nation," EMILIO CASTELLAR; South-western Commerce and Gulf Harbors," W. P. FRYE; "Free Silver Coinage—Why Not?" EDWARD ATKINSON.

June, 1891. "The Commonwealth of Australia," SIR CHARLES W. DILKE; "Immigration and the Tariff," WM. MCADOO; "The Great Count of 1890," FRANCIS A. WALKER; "Our Chance for Commercial Supremacy," ULYSSES D. EDDY; "Silver and the Need of More Money," W. M. STEWART.

July, 1891. "The Census and the Colored Race," FRANCIS A. WALKER; "The Operation of the Interstate Commerce Law," ALDACE F. WALKER; "Are Our Immigrants to Blame?" OSWALD OTTENDORFER; "The United States and Silver," CHARLES S. FAIRCHILD.

August, 1891. "Immigration and Degradation," FRANCIS A. WALKER; "The Causes of Gold Exports," GEORGE G. WILLIAMS.

From the Editors.

International Journal of Ethics.

April, 1891. "Social Equality," LESLIE STEPHEN; "Another View of the Ethics of Land Tenure," SIMON N. PATTEN.

From the Editors.

Journal of Education, The. Current numbers.

Literary World. Current numbers.

From the Editors.

Monist, The.

April, 1891. "Illustrative Studies in Criminal Anthropology," CESARE LAMBROSO.

July, 1891. "The Principle of Welfare," HARALD HOFFDING.  
From the Editor.

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National Corporation Reporter. " "

New Nation, The. " "

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North American Review, The

April, 1891. "Wealth and its Obligations," CARDINAL GIBBONS;  
"Pauperism in the United States," RICHARD T. ELY; "The  
Duty of the Hour," J. M. RUSK; "The West and the Rail-  
roads," SIDNEY DILLON; "The Best Sign of Our Times,"  
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